# HOMELAND SECURITY JURISIDICTION: THE PERSPECTIVES OF COMMITTEE LEADERS

## HEARING

BEFORE THE

## SUBCOMMITTEE ON RULES

OF THE

## SELECT COMMITTEE ON HOMELAND SECURITY HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTH CONGRESS

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# HOMELAND SECURITY JURISDICTION: THE PERSPECTIVES OF COMMITTEE LEADERS

**Wednesday, March 24, 2004**

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON RULES,
SELECT COMMITTEE ON HOMELAND SECURITY,
*Washington, D.C.*

The subcommittee met, pursuant to call, at 12:59 p.m., in Room 2237, Rayburn House Office Building, Hon. Lincoln Diaz-Balart, the chairman of the subcommittee presiding.

Present: Representatives Dunn, Weldon, Goss, Cox (ex officio), Sensenbrenner, Slaughter, Lofgren, McCarthy and Turner (ex officio).

Mr. DIAZ-BALART. We would like to welcome Members of the subcommittee and the Chairman of the Intelligence Committee as well as Chairman Cox who is here from the full committee today with us.

While this is our first hearing of this year, our staff has been working very hard to continue the important work of this subcommittee. As you all know, we have been authorized and directed to conduct a thorough and complete study of the operation and implementation of the Rules of the House, including Rule X, with respect to the issue of Homeland Security. And we will submit our recommendations to the House Rules Committee by September 30th.

Today's hearing will serve as an additional step in that process. In the summer and fall of 2003, we heard testimony from some the foremost experts on Congress. These witnesses included five academics from various institutions, two former committee chairmen with superior knowledge of the House rules, two former Speakers of the House, and the very first Secretary of Energy. This was a very distinguished bipartisan group of witnesses.

These witnesses have very different experiences to qualify them as experts on the Congress, yet they all share a common belief. And that belief is that the Select Committee on Homeland Security should be made permanent. Speakers Gingrich and Foley have both endorsed a permanent standing committee with primary legislative jurisdiction, and both have called for a joint statement from Speaker Hastert and Minority Leader Pelosi announcing their intent to make the committee permanent as soon as possible.

Speaker Gingrich explained, in part, his rationale for a permanent committee with the following words, "Congress cannot meet its Constitutional responsibilities unless it shows the same courage as the President in forcing through a real reorganization that does

not entangle the Department of Homeland Security in a web five times more complex than the Department of Energy deals with. It is urgent that Congress also reorganizes its own structure now."

Former Speaker Gingrich went on to say, "In fact, being effective at homeland security could prove to be, literally, a matter of life and death in terms of the security and freedom we have grown accustomed to as Americans. Life and death is not a rhetorical term. It is conceivable some of the threats of the 21st century could kill many times the 3,000 who were killed on September 11, 2001."

Both former members, Lee Hamilton and Bob Walker also supported the creation of a permanent standing committee. Mr. Hamilton explained his rationale with the following statement, "The issue of Homeland Security is not temporary. The threat of terrorism is long term, as are the related challenges that will confront our government. Thus, necessary oversight cannot be supplied on an interim basis nor can it be effectively and efficiently disbursed among the current 13 full committees and 60 subcommittees in the House."

While some may give less weight to the opinions of academics as not practical, these four men served in this institution with distinction and honor. They have a unique perspective having served in Congress but are no longer caught up in the day-to-day struggles of committee jurisdictions.

Secretary Schlesinger also gave a very poignant testimony before our committee. As the Director of Central Intelligence, Secretary of Defense and the first Secretary of Energy, Secretary Schlesinger has a very clear understanding of what a department or agency needs from Congress in the form of oversight and resources to be successful, especially a newly created department.

Here are just a few of Secretary Schlesinger's words from when he testified, "A new Government department does not spring like Athena from the brow of Zeus, full blown and ready for action. Organizing the department is not instantaneous. It takes time. There are many organizational challenges and organizational gaps, especially in the early days of a new department. The Department of Homeland Security is in a sense a start-up organization. Contrary to the expectations of too many, there will be unavoidable growing pains as the overall organization gradually comes together. Anything that the House can do to help the new Department rather than promote additional perches from which the Department can be criticized would serve the national interest."

These five men, all of whom were very clear, and all of our other witnesses made compelling cases for the permanency of the Committee on Homeland Security.

However, our study, obviously, is not complete. Today, we will hear testimony from committee leaders, each with a very unique understanding of their committee jurisdictions.

I am open—and, I am sure, all Members of this committee—to any option as long as it will help the fledgling Department of Homeland Security succeed in its mission of protecting American lives.

I am open to any suggestion, as long as it will help the House of Representatives to be as prepared as possible to act in the case

of a future terrorist event. The effectiveness of this House and the Department of Homeland Security must be our primary goal.

I would like to thank you, Chairman Goss, Ranking Member Harman, as well as all of the witnesses who will honor us with their testimony today.

When Ms. Slaughter arrives I will ask if, at the appropriate time, if she has an opening statement. And I would, at this point, yield to any members who may wish to make an opening statement.

PREPARED STATEMENT OF THE HONORABLE LINCOLN DIAZ-BALART, CHAIRMAN

I would like to welcome the members of the Subcommittee and the Chairmen and Ranking Members that will be testifying before us today. While this is our first hearing of the year, our staff has been working behind the scenes to continue the important work of our subcommittee.

As you all know, we have been "authorized and directed to conduct a thorough and complete study of the operation and implementation of the rules of the House, including rule X, with respect to the issue of homeland security," and we will submit our recommendations to the House Rules Committee by September 30, 2004. Today's hearing will serve as an additional step in that process.

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Speaker Gingrich explained, in part, his rational for a permanent committee with the following words:

"Congress cannot meet its constitutional responsibilities unless it shows the same courage as the President in forcing through a real reorganization that does not entangle the Department of Homeland Security in a web five times more complex than the Department of Energy deals with. It is urgent that Congress also reorganizes its own structure now."

Speaker Gingrich went on to say:

"In fact being effective at Homeland Security could prove to be literally a matter of life and death in terms of the security and freedom we have grown accustomed to as Americans. Life and death is not a rhetorical term. It is conceivable some of the threats of the 21st century could kill many times the 3,000 who were killed on September 11, 2001."

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While some may give less weight to the opinions of academics as not practical, these four men served in this institution with distinction and honor. They have a unique prospective of having served in Congress, but are no longer caught up in the day to day struggles of committee jurisdictions.

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"A new government department does not spring, like Athena from the brow of Zeus, full blown and ready for action. Organizing the department is not instantaneous; it takes time. There are many organizational challenges and organizational

gaps, especially in the early days of a new department. The Department of Homeland Security is, in a sense, a start-up organization. Contrary to the expectations of too many, there will be unavoidable growing pains—as the overall organization gradually comes together."

He went on to say that,

"Anything that the House can do to help the new department, rather than provide additional perches from which the department can be criticized would serve the national interest."

These five men, and all of our other witnesses, have made compelling cases for the permanency of Select Committee on Homeland Security. However, our study is not complete. Today we will hear testimony from Committee Leaders, each with a very unique understanding of their committees' jurisdictions.

I am open to any option as long as it will help the fledgling Department of Homeland Security succeed in its mission of protecting American lives. I am open to any suggestion as long as it will help the House of Representatives to be as prepared as possible to act in the case of a future terrorist event. The effectiveness of this House and of the Department of Homeland Security must be our primary goal.

I would like to thank all of our witnesses for testifying today, but before we begin, I would ask Ms. Slaughter, my distinguished Ranking Member if she would like to make an opening statement.

Mr. COX. Thank you, Mr. Chairman, first, for holding this hearing today and, second, for your sustained work in this area, which is an important portion of the charter of the Select Committee on Homeland Security.

We are to report to the Rules Committee and to the House this September on our recommendations for going forward with both authorization and oversight of the Department of Homeland Security and the House of Representatives.

I agree with you that we need to hear directly from the other chairmen of House committees as to how they think the issue of Homeland Security should be handled from a congressional, legislative and oversight perspective. And I thank all the chairmen and ranking members who have agreed to testify today, beginning with Porter Goss and Jane Harman, who will be our first witnesses. And I thank those who have submitted written testimony as well.

This is our fourth hearing on this topic. Previously, we have received testimony from former House leaders, as you point out Mr. Chairman, including speakers from both parties, as well as outside experts on congressional accountability, on the subject of how Congress should best organize itself, and on the subject of the terrific barriers to sensible oversight and authorization of the new Department because of turf jealousy in the Congress.

And we have heard from Executive Branch officials, such as James Schlesinger, the first Secretary of Energy and a former CIA Director and Secretary of Defense, about the difficulties of creating a new cabinet department with national security responsibility and the risks to the country of balkanized and diffused authorization and oversight in Congress. All of these witnesses—without exception, Republicans and Democrats—supported reforming the current House rules to create a permanent Committee on Homeland Security with primary legislative and oversight responsibility for the new Department of Homeland Security.

Today, I am certain we will hear some on the other side. It is important to strike the right balance between the jurisdictional responsibility of a new Homeland Security Committee and the very legitimate jurisdictional interests of more than a dozen committees that have historically had jurisdiction over the 22 legacy agencies transferred to Homeland Security.

There is in place a good congressionally-created road map to jurisdictional reform. It is the Homeland Security Act. That act, focused as it is on the structure, organization, capabilities and mission of the Department, itself offers a blueprint. Just as important as ensuring accountability by having one committee responsible for authorization and oversight of Homeland Security is ensuring that both the Department and the committee overseeing it are strictly limited in their mission to prevent terrorist attacks, reduce our vulnerability to terrorist attacks, and prepare for and respond effectively to such attacks.

By reconsidering the jurisdiction and responsibility of the Department, we can best rationalize the jurisdiction and responsibility of committees in the Congress. For example, we don't need a Homeland Security Committee looking at how FEMA responds to floods and tornados.

We don't need a Homeland Security Committee looking at how the Coast Guard clears ice from waterways or supports recreational boating. And we don't need a Homeland Security Act looking at immigration quotas or citizenship rules.

This is true despite the fact that all of these functions were transferred into the Department of Homeland Security. Considerable expertise with respect to those issues resides in the current standing committees of the Congress, and there is no reason to recreate it elsewhere.

But we do need a Homeland Security Committee looking at the fusion of foreign intelligence, domestic intelligence, domestic and foreign watch lists and the Federal and State and local law enforcement response to this information.

We do need a Homeland Security looking at the integration of several border security entities that were transferred into the Department last year from multiple Federal departments. We do need a Homeland Security Committee looking at the effectiveness of information-sharing on infrastructure threats and vulnerabilities both within the Department and between the Department of Homeland Security and other Federal, local and State governmental entities, as well as within the private sector.

We do need a Homeland Security Committee looking at the integration of the myriad of terrorist and other law enforcement and intelligence databases within DHS and across the Federal Government. We do need a Homeland Security Committee looking at how best to fund, prepare, train and re-equip our first responders in the battle against terrorism, and we do need a Homeland Security committee to ensure that the sum of the various parts of the Department of Homeland Security adds up to something much greater, much more focused than a collection of legacy agencies, doing what they have always done.

Most important, we need a Homeland Security Committee looking at the development of a comprehensive and dynamic threat and vulnerability analysis to guide strategic Homeland Security planning, resource allocation and infrastructure protection. The Congress must look at the Department as a unified whole in order to set congressional priorities and give congressional direction through a regular annual appropriations process and authorization process.

But currently, in each of these areas, jurisdiction is scattered among many House committees, and in some cases, it is nonexistent.

Imagine if the Department of Defense did not have a primary authorization and oversight committee?

If we are talking about the security of the United States of America, the most essential function of our national Government, to give Homeland Security the attention it demands from us as a separate Department in the Executive Branch of Government and an entirely new discipline, Congress, too, must be restructured.

Chairman Bill Young of the Appropriations Committee noted in his written testimony today that when he created a single Homeland Security Appropriation Subcommittee, quote, "The imperative for the committee and the Department presumably from the outset was to provide a structure for the legacy agencies to coalesce into a single department with a coordinated unified mission."

He also states that his committee, quote, "Would find it equally difficult to provide consistent oversight and appropriate funding levels if the myriad of the departments, programs and activities were scattered across seven subcommittees."

It was obvious to me early that we needed to reorganize to provide structure to ourselves and for the new Department that we were to oversee and fund. If this makes eminent sense, Mr. Chairman, for the appropriations side, which I believe it does, then it makes equally good sense for the authorization and oversight side.

I look forward to exploring these issues today with our witnesses and to working with them as this year progresses. Thank you Mr. Chairman.

PREPARED STATEMENT OF THE HONORABLE CHRISTOPHER COX

Thank you, Mr. Chairman, for holding this hearing today. I, too, think that we need to hear directly from the other chairmen of House committees as to how they think the issue of homeland security should be handled from a congressional legislative and oversight perspective. And I thank all of the chairmen that have agreed to testify today and those that have submitted written testimony as well.

This is our 4th hearing on this topic. Previously, we have received testimony from former House leaders, including Speakers from both parties, as well as outside experts in Congressional accountability, on the subject of how Congress should best organize itself. . .and the terrific *BARRIERS* to sensible oversight and authorization of the new department because of turf jealousy. And, we heard from Executive Branch officials, such as James Schlesinger, the first Secretary of Energy, and a former CIA, Sec. Def. about the difficulties of creating a new cabinet department with national security responsibility, and the risks to country of Balkanized and diffused authorization and oversight in Congress. All of these witnesses, without exception, Republicans and Democrats, supported reforming the current House rules to create a permanent Committee on Homeland Security with primary legislative and oversight responsibility for the new Department of Homeland Security. *Today, we will hear from the other side.*

Crafting the right balance between the jurisdictional responsibility of a new Homeland Security Committee and the very legitimate interests of the > dozen committees that have historically had jurisdiction over the 22 LEGACY agencies transferred to Homeland Security. But, the congressionally created road map to jurisdictional reform—the Homeland Security Act—that focuses on the structure, organization, capabilities, and mission of the Department itself, offers a blueprint.

Just as IMPORTANT as insuring accountability by having *ONE* committee responsible for AUTHORIZATION AND OVERSIGHT of Homeland Security, is insuring that *BOTH* the department and the Committee overseeing it, are STRICTLY LIMITED in their mission to prevent terrorist attacks, reduce our vulnerability to terrorist attacks, and prepare for and respond effectively to such attacks.

By reconsidering the jurisdiction and responsibility of the Department, we can best *rationalize* the jurisdiction and responsibility of Committees in the Congress. For example, we don't *need* a homeland security committee looking at how *FEMA* responds to *floods or tornados* We don't need a homeland security committee looking at how the Coast Guard clears ice from waterways or supports recreational boating. And we don't need a homeland security committee looking at immigration QUOTAS or citizenship procedures. at backlogs in the processing of legal immigrants or other immigration services. This is true, despite the fact that all of these functions were transferred into DHS. Considerable expertise with respect to those issues resides in the current standing committees of the Congress, and there is NO REASON to recreate it ELSEWHERE.

But we *do* need a homeland security committee looking at the fusion of foreign intelligence, domestic intelligence, domestic and foreign watch lists, and Federal, state and local law enforcement response to this information. Integration of the several border security entities that were transferred into the Department last year from *multiple* Federal departments. We *do* need a homeland security committee looking at the effectiveness of information sharing on infrastructure threats and vulnerabilities, both within the Department and between DHS and other Federal, state, and local government entities, as well as with the private sector. We *do* need a homeland security committee looking at the integration of the *myriad terrorist and other law enforcement and intelligence databases within DHS and across the Federal Government.* We do need a homeland security committee looking at how best to fund, prepare, train and equip our *first responders in the battle against terrorism.* And, we need a homeland security committee to ensure that the sum of the various parts of DHS adds up to something much greater, much more focused, than a collection of legacy agencies, doing what they always have done.

Most important, we need a homeland security committee looking at the *development* of a (comprehensive and dynamic) *threat and vulnerability analysis* to guide 1. *strategic* homeland security *planning,* 2. resource allocation, and 3. infrastructure protection. The Congress must look at the Department as a unified whole, in order to set congressional priorities, and give congressional direction through a *regular ANNUAL authorization process.*

Currently, in *each* of these areas, jurisdiction is scattered among MANY House committees, and in some cases it is non-existent. Imagine if the Department of Defense did not have a primary authorization and oversight committee. Yet we are talking about the security of the USA, the most essential function of our National Government. To give *homeland* security the attention it demands from us as a separate DEPARTMENT in the Executive branch of Government, and an ENTIRELY NEW DISCIPLINE, Congress must be structured so as to give it sustained and expert attention.

Chairman Bill Young of the Appropriations Committee noted in his written testimony today that, when he created a single homeland security appropriations subcommittee:

"The imperative for the Committee (and the Department presumably) from the outset was to provide a *structure* for the legacy agencies to *coalesce* into a single department with a coordinated, unified mission. . ."

He also states that his committee: "would find it equally difficult to provide consistent oversight and appropriate funding levels if the myriad of the department's programs and activities were scattered across seven subcommittees. It was obvious to me early that we needed to reorganize—to provide structure to ourselves and for the new agency that we were to oversee and fund."

If this makes eminent sense for the appropriations side—which I believe it does—then it must also make good sense for the authorization side.

I look forward to exploring these issues today with our witnesses and to working with them as this year progresses to rationalize and improve this House's homeland security oversight and legislative activity.

Thank you, Mr. Chairman.

Mr. DIAZ-BALART. Thank you, Mr. Chairman.

Mr. Weldon?

Mr. WELDON. Thank you Mr. Chairman. I don't have a prepared statement, but I would like to make a few comments.

I think this is the most important task that we will undertake this year. And I am overwhelmingly in favor of creating a full permanent committee, as I said before the Rules Committee last year when I testified or, actually, last session when I testified before the

Rules Committee on the House Republican Policy Committee on the need to have an individual authorization and appropriation committee in both the House and the Senate. We have taken the first step with the select committee, but it hasn't solved the problem.

As my colleagues and as you have pointed out Mr. Chairman, it is impossible, it is unthinkable to have one agency report to—and if my staff will put the chart up on the easel—88 committees and subcommittees in the House and the Senate.

If you add up all of the membership of these 88 committees and subcommittees, you will find out that there are 505 Members of Congress who can claim jurisdiction over Homeland Security.

How in the world can one agency answer the phone calls, the staff inquiries and the other efforts to inquire with 505 Members of Congress claiming they have jurisdiction over this or that issue in Homeland Security?

It is absolutely unthinkable we would have this kind of arrangement, and we wonder why the Homeland Security Department spends the bulk of their time answering questions for the Congress as opposed to doing their number one problem and priority, which is protecting the homeland.

And there are some very specific things that have happened over the past 2 years, Mr. Chairman, I would like to focus on as examples of what we are talking about. We had the Homeland Security Technology Transfer Bill. When it was introduced, it was referred to four to six committees and the Select Committee with expertise on the matter.

Four to six of the five different House committees that this bill was referred to, each one of them refused to act on it because they know collectively that none of them will be able to—or all of them won't be able to act on it before the end of the session, so therefore, none of them act on it.

Meanwhile, the Senate, with one committee, has already passed the bill. We will not act on that bill this year. We look at the Select Committee not being given important jurisdiction.

And I see my good friend Jane Harman is here. And a good example is the bill that she and I introduced on Homeland Emergency Response and Operations or the HERO bill. She knows full well that one of our distinguished authorizing committees will not allow this committee to have any say on that very important subject, which is the number one priority for our first responders and that is public safety frequency spectrum allocation. Another example of where we will not act this year, yet we have this jurisdiction.

A third is the first-responder bill, which the Chairman has done a fantastic job on in a bipartisan way with Congressman Turner, we have marked up the bill. It is referred to three other committees, and there will probably not be enough time to pass the bill this year.

So we have to be very careful not to offend other committees when we draft it, and some of the provisions still will be removed before the bill finally moves to the House floor.

Mr. Chairman, I can tell you that I have worked closely for the past 18 years with the first-responder community. I have been to

all 50 states. I have spoken to all of their groups. They consider me one of them because I used to be one of them.

Every first-responder group in America, every one, supports one committee for authorization. Now, I would think the people who we task to protect the homeland know best. The International Association of Fire Chiefs, the International Association of Fire Fighters, the National Volunteer Fire Council, the State Fire Marshals, International Arson Investigators, the National Fire Service Instructors, all of the other myriad of groups who represent the 1.2 million men and women who respond to our homeland security situations, all have gone on record and have said we need one authorization committee.

Well, then why then can't we move it? Perhaps, we will hear in this hearing today the reasons. But I would argue and I would make the point, Mr. Chairman, that I am going to be listening to the people who want the Homeland Security Department to respond to their needs. And they unequivocally and overwhelmingly say we should do on the authorization side what Bill did on the appropriations side and have one committee of jurisdiction. And I hope that our hearings will, in the end, be able to allow us to make that recommendation. Thank you.

Mr. DIAZ-BALART. Thank you, Mr. Weldon.

I ask unanimous consent that all written statements of our witnesses today as well as those chairmen and ranking members who could not be here to testify, be included as part of the hearing record.

Being no objection, so ordered.

PREPARED STATEMENT OF THE HONORABLE JIM TURNER

I have said previously and will repeat again today: If you take homeland security seriously, you must reach the conclusion that there needs to be one Committee in the House of Representatives with oversight and legislative jurisdiction over the functions of the Department of Homeland Security.There are a number of reasons I have reached this conclusion.

First, we need to do whatever we can in the Congress to help the Department of Homeland Security to be successful. Right now, we have dozens of full committees and scores of subcommittees overseeing the Department. We call senior Department officials to duplicative hearings. And we push the Department in multiple, sometimes conflicting policy directions.

Congress is making the Department's substantial challenges more difficult.

Secretary Ridge agrees. At a hearing before our Committee he said, "I think it goes without saying that a streamlined process of oversight and accountability, in my judgment, would do both the executive branch and the legislative branch a world of good.

Let me provide one example. The Department launched an initiative called "One Face At the Border," which attempts to merge the functions of the former customs and former immigration inspectors at our ports of entry. Without a Homeland Security Committee, the Ways and Means Committee and Judiciary Committee would both have jurisdiction over that small program, as would the Appropriations Committee and possibly the Government Reform Committee as well. The people who run "One Face At the Border" have to deal with many faces here in Congress.

My second main reason for advocating for a permanent Homeland Security Committee is that I do not believe effective oversight over the Department can be accomplished with multiple Committees having responsibility for different sections of the Department. To illuminate this, let me describe the effort of the Select Committee, under Chairman Coxs leadership, to do a thorough review and authorization of the Department of Homeland Security's budget. This is a very important task, especially for a new Department.

Who would do this if we don't have a single homeland security committee? Who would look at the tradeoffs that every Department must make when developing a

budget? Who would look at the cross-cutting issues that affect the Department at large rather than individual components—issues such as developing a comprehensive threat and vulnerability assessment? Who would focus on the serious management challenges facing the Department, such as those pointed out by the Department's Inspector General today? The answer is, frankly, no one.

It appears to me that the witnesses today who argue that a new Committee is not necessary are disregarding the decision made by Congress and the President to create a Department of Homeland Security. This decision reflected a determination that it was critically important to bring diverse agencies under the direction of a Secretary whose focus—24/7—would be on security. Even though the Attorney General had tremendous expertise in immigration, and the Treasury Department had tremendous experience with customs, and the Transportation Department had tremendous knowledge of aviation security—these functions were placed in the Department of Homeland Security. For Congress to approve this reorganization, and the philosophy behind it, but fail to reorganize itself to deal effectively with the new reality, would be, to put it bluntly, the height of hypocrisy.

Does this mean that committees with years of experience and expertise in areas such as bioterrorism or aviation security should be stripped of any influence over these subjects? No. There are ways to have shared jurisdiction over issues where more than one committee has something to contribute. This is accomplished in many other areas. Jurisdictional arrangements can also be made for how Congress should handle non-homeland security responsibilities of the new Department.

Finally, I would like to deal head on with the idea that has been put forward that homeland security could be handled through a subcommittee on the Government Reform Committee. I served on the Government Reform Committee so I am familiar with the tremendous work it does on oversight and issues that affect government operations across the board. But I see no reason why we should consolidate jurisdiction over homeland security in the Government Reform Committee any more than we should provide it jurisdiction over health care, highway construction, or education.

Such a consolidation has not occurred in the Governmental Affairs Committee in the Senate and we have no way to predict whether it will. Rather than trying to mimic an illogical approach that may or may not happen in the Senate, I believe it would be far better to lead the way with the right approach. I also believe that if we create a strong Committee on Homeland Security in the House, the Senate will have no choice but to follow suit. This is exactly what happened with respect to the Appropriations Committee. The House took the right step of creating a separate appropriations subcommittee for the Department of Homeland Security. The Senate soon did the same thing.

I also want to express some skepticism about another idea—continuing the Select Committee in its current form for another Congress. While I believe we have made a positive contribution this year in a number of ways, this structure is not a permanent solution. In some ways, by creating yet another committee to which the new Department must report, we are part of the problem this year rather than the cure. And without meaningful authority and jurisdiction, the Select Committee is hamstrung in its efforts to legislate and conduct oversight.

I am certain that the right thing to do for the national security of our country is to create a permanent Homeland Security Committee. That Committee should have oversight with respect to all homeland security activities of the Federal Government. It should also have legislative jurisdiction over the full range of the Department of Homeland Security's operations. While I will not be serving in the next Congress, I do fear that if the Congress fails to take decisive action on this topic, and we suffer additional terrorist attacks in the United States, Congress will be held accountable for this failure.

## PREPARED STATEMENT OF THE HONORABLE BENNIE THOMPSON

I greatly appreciate the opportunity to express my views on the future of the Select Committee on Homeland Security. It has been said time and time again that we now live a new age. . .an age of uncertainty. We have come face-to-face with terrorism and must prepare our homeland for future engagements. There is no doubt that this is a challenge of the greatest magnitude. In fact, the argument can be made that this is one of the greatest and most unique challenges that faces our great nation. We face an enemy that is unquestionably dedicated to the destruction of this free nation. Given this fact, we continue to be unquestionably dedicated to protecting freedoms and principles on which this nation was founded.

On September 11, 2001, people around the world wept and grieved deeply over the lives lost on that tragic day. On that same day our nation and many of our allies

vowed to go the distance in bringing those who carried out the horrible attacks on September 11th. As our military continues to carry out our nation's campaign against terrorism it is incumbent upon the house to do its part to ensure that such ferocious attacks never again take place.

After the attacks of September 11, and after considerable pressure, President Bush finally understood the need for a unified national homeland security effort. After understanding the wisdom of this course of action, the president approved the consolidation of 22 domestic agencies into the Department of Homeland Security. The idea behind the consolidation of nearly two dozen domestic agencies would breath life into the national goal of fighting terrorism, foreign and domestic, create a greater harmony between the agencies, and reduce the chances of future attacks. The decision to create the Select Committee on Homeland Security was a solid first step towards better preparing the country to defend against terrorism.

We, as a deliberative body, must resist the temptation to continue in a "pre-9/ll" mind set that creates unfathomable scenarios that could severely limit our effectiveness to combat terrorism in the legislative arena. As representatives of the people, it is our responsibility to contribute to the war on terrorism through effective legislation and oversight. Unfortunately, some in this body and on this panel have failed to see the benefits to consolidating the legislative and oversight responsibilities into one committee. A number of congressman and congresswomen have voiced strong concerns stating that the Select Committee on Homeland Security has done its job and should be dissolved. Some have even suggested that the committee be allowed to continue its existence without the needed legislative and oversight authority. They contend that myriad committees would be better suited to deal with the special needs of Homeland Security. They site legislative and institutional experience as the reason other committees would be more effective in the realm of homeland security oversight and legislation. Given these claims, one must ask the question, "Where were the legislative and institutional experience and the preventative accomplishments on and leading up to 9/11"

It is possible to make the argument that the many committees and subcommittees that have legislative and oversight jurisdiction over the Department of Homeland Security lacked the vision and foresight to effectively legislate against a terrorist attack.

The same committees that claim that they should be gifted with this incredible responsibility have not produced for the American people. How can so many different committees and subcommittees promise the American people that they will commit effective resources and time to the issues of homeland security when their committees have other important responsibilities. It is irresponsible to allow this decentralized legislative and oversight responsibility. Anything less than a centralized legislative and oversight body with authority has the potential to indirectly assist terrorist and make preventing terrorist attacks more difficult. A single legislative committee must exist, not only to provide effective oversight and legislative action, but also to ensure accountability. The authority must not ebb and flow between committees and subcommittees with the changing of the political wind. The American people deserve better than that. They deserve greater protection from terrorists, political opportunism, and turf battles. Responsibility and accountability must come from concrete, not liquid, authority. Decentralized authority means decentralized accountability.

It is crucial that Members of Congress understand what the nation already understands and that is how real and how imminent these threats are. In the eyes of the terrorist, September 11th was just an example of their hatred.

Creating a single legislative body to deal with horrible events is consistent with congressional responses. I strongly endorse making the current Select Committee on Homeland Security a permanent committee with clear legislative and oversight jurisdiction over the Department of Homeland Security. The ability of the House to engineer comprehensive legislation in advance and in response to crisis, over see the administration of laws and carry out our constitutional responsibility to represent the people of the United States people depends a great deal upon the organization and management of the committee system. The only way to ensure that the Department of Homeland Security is effectively addressing the nation's needs with respect to terrorist threats is to make the committee permanent and give it all of the legislative and oversight authority as traditional standing committees.

## PREPARED STATEMENT OF THE HONORABLE LOUISE M. SLAUGHTER

I thank the many Members who are taking the time out of their full schedules to speak with us today. There are many demands on everyone's time, not the least

of which this week is the Federal budget for FY05. Your time and insights are greatly appreciated.

The creation of the Department of Homeland Security has raised many issues. Congress has a responsibility over the new department itself, and Congress has a heightened responsibility to respond to the threat of terrorism. The question that this subcommittee continues to consider today is what structure is best for the House and best for the nascent department.

Some structural changes have already been made. The Appropriations Committee created a homeland security appropriations subcommittee. The Senate has incorporated its homeland security duties into its Government Affairs Committee, instead of creating a separate homeland security committee.

Last year this subcommittee heard from a series of distinguished scholars, former Members, former Speakers, and others. consensus seemed to emerge from those hearings that the House should have a A committee on homeland security. These recommendations are helpful, but not conclusive. Parliamentary and practical issues, such as committee jurisdiction, referral, oversight, legislative authority, and subject-matter expertise, are important parts of the equation in determining the utility, necessity, and desirability of a homeland security. This is where your experience and expertise is invaluable to the subcommittee's deliberations.

The big questions continue to be debated. Should the House have a homeland security committee? Should it be permanent, select, or permanent select? Should it have oversight jurisdiction over the Department of Homeland Security? Should it also have legislative authority for the Department? Should the committee have jurisdiction over homeland security programs or jurisdiction over all of the entities that have been moved into the Department?

I look forward to hearing from the distinguished panelists today. The Chairmen and Ranking Members of the committees with jurisdiction over programs and entities within the Department of Homeland Security will be able to provide special insight into the daily workings of the House and our collective response to terrorism and the creation of the Department of Homeland Security.

Mr. DIAZ-BALART. Chairman Goss and Ms. Harman, thank you so much for being here today. I would ask that you proceed with a summary of your written statements, and we will stick to the 5-minute rule.

Mr. DIAZ-BALART. We will begin with Chairman Goss. Welcome.

**STATEMENT OF THE HONORABLE PORTER GOSS, AND CHAIRMAN PERMANENT SELECT COMMITTEE ON INTELLIGENCE**

Mr. GOSS. Thank you very much Mr. Chairman. I have A formal statement for the record which I would ask be included, and I would summarize very briefly.

Mr. DIAZ-BALART. Without objection.

Mr. GOSS. First of all, the issue before us: Is the House organized efficiently to handle Homeland Security oversight including the department of Homeland Security? Should there be a Homeland Security committee?

I believe the answer is, of course, yes. We are going to have Homeland Security, and we have to have oversight and authorization, and we have to have knowledgeable people doing the advocacy for that. So there is no question that in my view that decision has been made.

What it is going to look like is really what the issue is about, I believe. And I can argue that, under Rule 10, there are advantages to proceeding to set up a regular standing committee or I could say a permanent select committee patterned on the template that we use in our Intelligence Committee might work as well. I think there are pluses and minuses to both. I am not going to dwell on the how to. It is just that it needs to be done.

With regard to some observations I would make and coming at it from the perspective of the intelligence aspect, which is, as you

noted in your opening remarks, Mr. Chairman, a small part of the Homeland Security but, in my view, a necessary part. I believe intelligence is the nerve center. I believe it is the trigger. I believe it is the thing without which the rest becomes basically a huge burden on the people that Mr. Weldon has just spoken to, the responders.

I would like to put the responders out of business. I want them all to become Maytag people. I love them. I just don't want to use them. I would like to have good information so we stop the bomb before it goes off. We stop the incident before it goes off. And that is where intelligence comes into Homeland Security, goes into some type of a process, gets turned around and goes out to action, agents who are properly authorized to go out and forestall, preempt, prevent any kind of mischief happening. That, to me, would be a successful Department of Homeland Security.

I do believe that the present committee, the acting committee that we have is too large a committee. I say that because there are many interests that need to be considered and it is entirely appropriate to have a large committee at this point. I would hope that it could be more focused when the organizational aspects are refined down.

With regard to jurisdiction and overlapping areas, I know there has been a lot of discussion about that, and everybody wants to guard their turf. And it will come as no surprise to you that I believe that intelligence, the way we have it set up in our oversight, both in the Senate and the House, under the present conditions has gone through an evolutionary process that has finally brought us a result that is actually working quite well.

There are some who suggest that, perhaps, we should combine the Senate and the House, and there are some other sort of proposals on the table. But I can assure you that we now have a system that is working and providing both the advocacy and the oversight of our intelligence communities.

We act as the 1–800-number for keeping the intelligence community in all its aspects in, bounds and we act also as the advocacy by doing the authorization for all activities by statute. We may not indulge in intelligence activities in this country, even with appropriated funds, unless they are authorized by the oversight committee. That is a special and unique role for the Permanent Select Committee on Intelligence and for a good cause.

I believe that nevertheless HPSI takes on—Intelligence Committee takes on the understood responsibility we do have to reach out to the other chairmen where there are combined interests. And we have 15 agencies that are in other Cabinet areas and secretary areas that fall under other oversight areas. And we do reach out to Chairman Sensenbrenner, Chairman Hyde, Chairman Duncan Hunter of the Armed Services, the appropriate committee.

We also try and have membership on our committees through the leadership appointment process where we bridge to some of those committees so that we are efficient. So these things are resolvable, I believe, without having open turf wars. And I would suggest that there is plenty of history on the books of how we can proceed on that.

I do believe that the relationship we have with the intelligence community is built on a clear understanding of how we handle classified information for the intelligence community and our portfolio. And I would not like to change that because I do believe it does work well and serve our objectives extremely well.

I would also point out, we work with different appropriations people and will have no trouble working with the different appropriations committees as authorizers whether it is the defense appropriations committee or some other one in the various manifestations that might come through Homeland Security that nevertheless have an intelligence component, which we would expect to be in our portfolio.

And finally, the last thing I was going to say, goes back to Pearl Harbor. Interestingly enough, as horrible as Pearl Harbor was, that 6 years after Pearl Harbor when we set up a national intelligence program in our country—it was a national foreign intelligence program. We do not have a domestic intelligence agency. Americans do not spy on Americans.

That gets us to the question of how do we integrate or fuse information that comes from our local law enforcement people in a way that does not confound that objective of free and fair democratic open society, all the hallmarks of being an American in a way that we do not impose a domestic intelligence agency on the people of the United States of America.

And I suggest that the way we are doing it now is working quite well, using the foreign intelligence program manifest through TTIC. Happy to answer any questions on TTIC.

PREPARED STATEMENT OF THE HONORABLE PORTER J. GOSS

In the year since the establishment of the Department of Homeland Security and the three and half years since September 11th, the Federal Government has moved substantial resources to break down stovepipes and better protect the nation. The House has undertaken, in this Committee, an exercise in reviewing our own capabilities to conduct oversight of the Department of Homeland Security and related areas.

As Chairman of the House Permanent Select Committee on Intelligence (HPSCI), I have a unique perspective because the Committee is a unique Committee. HPSCI has been the only standing select Committee in Congress for many years now, and I would like to provide my insights into the authorization and oversight process we undertake to fulfill Congress' responsibility to provide vigorous oversight of the Intelligence Community in the most responsible manner possible. HPSCI's creation was intended to provide Congress with the ability to oversee disparate departments and organizations throughout the Federal Government.

As you are aware, HPSCI has sole jurisdiction over US intelligence and intelligence related activities. This means that we oversee the national intelligence agencies and the military intelligence entities—yet we also oversee the intelligence components of many other agencies, such as the State Department, Treasury, and the FBI. We are very focused on intelligence and we are able to do our oversight in a thorough and constructive manner without redundancy or the interference of other House oversight committees.

HPSCI's exclusive jurisdiction over the intelligence and intelligence-related activities is a critical element of our ability to conduct complete, across-the-board, nonpartisan oversight. The unique nature of HPSCI protects sensitive intelligence sources and methods associated with intelligence collection and analysis. Congress, as a whole, can review and benefit from finished analytic product, but the discussion of where and how that information was acquired is reserved for the closed-door sessions with HPSCI. This is the balance that was struck with the Executive Branch when the committee was created, and I believe it continues to serve us well today.

HPSCI has conducted vigorous oversight of the Intelligence Community including the intelligence elements of counterterrorism and homeland security. In fact, prior

to the events of September 11th, the HPSCI in January 2001 created a working group to examine the terrorist threat and the US homeland. After September 11th, 2001 this working group was elevated to a subcommittee. Today, that subcommittee continues to examine many of the issues that the newly established Select Homeland Security Committee has sought to clarify with respect to intelligence.

HPSCI will continue to advocate for its proper jurisdiction to oversee and authorize intelligence community elements including the Terrorist Threat Integration Center (TTIC) and the Department of Homeland Security's Information Analysis (IA) Division in the same way it oversees and authorizes other Intelligence Community elements such as the FBI's Office of Intelligence and the Counterintelligence Division, the Department of State's Bureau of Intelligence and Research (INR), the Department of Treasury's Office of Intelligence, and the Department of Energy's Counterintelligence Office and Office of Intelligence.

I believe the best defense is a good offense and that the role intelligence plays in protecting the nation is vital, but there is more to homeland security than intelligence. I would note that the Homeland Security Committee has spent considerable time examining the intelligence portion of homeland security and in questioning the intelligence community's ability to function and communicate with other governmental departments, specifically the Terrorist Threat Integration Center and the CIA. I welcome the questioning of the Intelligence Community and the dialogue between our Committees, and believe that collectively we can better protect and prepare the nation to defend itself from the terrorist threat.

The greatest capability that the Select Committee on Homeland Security can and should provide to Congress is its focus on a single—albeit enormous—Department within the Government and the integration of that Department's many, many functions. It can pass its findings on to the relevant Committee, or Committees that will be charged with the long-term task of DHS.

The Select Committee also has the opportunity to define, for House purposes, the term "homeland security," and I hope we will make the most of this opportunity. While there appears to be an ever-increasing number of "intelligence experts" these days, the definition of intelligence is generally understood. I think, however, Congress and the country as a whole, are still working on an answer to "What is homeland security?"

To conclude my remarks, I would highlight the important role intelligence plays in the protection of our nation and the strong relationship that must develop between the Intelligence Community and the Department of Homeland Security. We must work to bolster the resources of both, this is not an "either or" proposition.

Mr. DIAZ-BALART. Thank you. And we will have questions. Thank you so much for your testimony.

Mr. DIAZ-BALART. Mrs. Harman?

**STATEMENT OF THE HONORABLE JANE HARMAN, RANKING MEMBER, PERMANENT SELECT COMMITTEE ON INTELLIGENCE**

Ms. HARMAN. Thank you Mr. Chairman.

It is good to see you and to see several members of the select—Permanent Select Committee on Homeland Security here as well. And I do agree with my colleague, Congressman Weldon, that it has been enormously frustrating trying to get one interoperable communications system adopted for our country, which is a critical building block to an effective Homeland Security system. And a problem is the way Congress is organized. Let me submit my comments for the record, too, and just hit a few high points.

Mr. DIAZ-BALART. Without objection.

Ms. HARMAN. I do agree with much that chairman Goss has said. I would only add that the intelligence committees in Congress, our jurisdiction and our focus could use A little tune up, too. We should be more mission-based.

The mission is, at this point, counter-terrorism and more effective efforts to stop the proliferation of weapons of mass destruction. Those are the big threats, and I hope that our committee will tack-

le them on a mission-based program, rather than the kind of analog way we have dealt with them in the past. But that is something he and I have discussed.

Turning to this subject, in 2000, I was a member of the National Commission on Terrorism, chaired by Ambassador L. Paul Bremer, also known as Jerry Bremer, now the civil administrator in Iraq. Our charter was international terrorism, not specifically homeland security. But we did recommend that Congress develop mechanisms for coordinated review of the President's terrorism policies and budgets.

Similarly, I supported the establishment. In fact, I called myself one of its godmothers, of the Department of Homeland Security, to bring greater focus to the Government's efforts to protect the homeland. As I have often said, this effort was not to rearrange the deck chairs, but to build one deck.

If we were serious about the Department of Homeland Security and if we are serious about Congress developing better mechanisms for coordinated review of terrorism, then we need to establish an effective committee of homeland security. I think it should be permanent. I don't know what its size should be. But it should be certainly a streamlined version of what we presently have. And it should have some clear jurisdiction to act.

I can see at least three reasons why doing this makes sense. First, having at least two sets of eyes can strengthen congressional oversight. I agree with Chairman Goss that there are areas where the intelligence committees should have primary and possibly exclusive jurisdiction. Nonetheless, the eyes that this committee can put on things, like the integration of watch lists and the intelligence function, inside the Department of Homeland Security, help augment the role of the House and Senate intelligence committees.

Second of all, this committee can ease the burden on the Department of Homeland Security, which already is having some organizational—early organizational struggles in terms of testifying before Congress and dealing with Congress. It is unreasonable to expect Secretary Ridge and his top folks to testify before 88 committees and subcommittees. It makes a lot more sense to have the focal point be here.

Third, this committee, as reorganized and streamlined, can, I think, best deliver some important messages to the Department of Homeland Security. One of them that Chairman Cox and I strongly agree on is that we urgently need one nationally-integrated threat and vulnerability assessment to drive our resources. We have to harden the right targets, put the resources against those targets and stop the squeaky wheel theory of homeland security funding. And if we have one effective streamlined committee, we can deliver that message better.

In conclusion, Mr. Chairman, since I have 48 seconds left, I would just like to say that many people in Congress have worked very hard on this problem and care very much about it. That is the message we want to send to Curt Weldon's first responders. We care very much. We do hear them. We want to do better.

But that chart, that congressional organization chart is a nightmare. And in order to do better for the people we represent, we have to overcome our own internal turf battles, organize ourselves

more efficiently and then really add value to dealing with the toughest targets in the world, terrorism and proliferation of weapons of mass destruction.

Thank you, Mr. Chairman.

PREPARED STATEMENT OF THE HONORABLE JANE HARMAN

Thank you, Mr. Chairman, Ranking Member Slaughter, and my colleagues on the Select Committee on Homeland Security, for the invitation to appear before you today.

I am a Member of the full Committee on Homeland Security, so am speaking both from the Intelligence Committee perspective, but also as someone who has paid close attention to the way this committee has worked. I understand that Chairman Goss is not only a member of this full committee as well, but is even a Member of the Subcommittee that he is now testifying before. I'm not sure if that constitutes a conflict of interest, but we can be sure that at least one member of this Subcommittee will agree with his testimony.

We have been asked to speak about how the House should conduct oversight over the Department of Homeland Security and handle legislation concerning homeland security in future Congresses. My recommendation is that the House create a permanent committee with primary oversight and legislative authorities over the homeland security activities of the Department of Homeland Security.

The intelligence reports that I receive tell me the same thing that your witnesses in past hearings have told you: the threat of terrorism will be with us for the foreseeable future, and Congress needs to make permanent structural changes to account for it. Homeland security is not only a hot button issue in the aftermath of September 11, 2001, and something on the nation's mind following terrorist attacks overseas, like the recent tragic bombings in Spain. Homeland security is a new way for our government, our private sector, and our citizenry to live.

I believe, and the past year's experience has shown, that a dozen House committees cannot effectively oversee or legislate on homeland security. Like every other witness that will appear before you today, I believe that my committee, the House Intelligence Committee, has done excellent work this Congress and in the last, to address homeland security challenges.

The Intelligence Committee Members and staff have held hearings and authorized activities of the Department of Homeland Security's Directorate for Information Analysis and Infrastructure Protection, which is a statutory member of the National Intelligence Community. We have worked closely with DCI Tenet, Secretary Ridge, Director Mueller, Attorney General Ashcroft, and others on the Terrorist Threat Integration Center and the Terrorist Screening Center.

Moreover, the Intelligence Committee will continue to include part of DHS' budget in our annual intelligence authorization bill, and will oversee the intelligence products and processes of IAIP.

However, the excellent work of the Intelligence Committee, even if matched by every other committee, does not translate to effective, comprehensive Congressional action over homeland security. For example, a Homeland Security Committee has an important role to play to determine how intelligence from IAIP is used by the rest of DHS. That, while potentially within the purview of the Intelligence Committee, could not be adequately studied in the absence of a dedicated committee.

The work of the Select Committee on overseeing the functions of the Department also demonstrate the Committee's value. Reports produced by the Democratic Members and staff on smallpox preparedness, terrorist watch lists, and the anniversary report of the Department, all of which I have been proud to sign, are valuable contributions.

Mr. Chairman, your subcommittee is clearly facing the ugliest four letter word—turf. I'd like to speak briefly about the interactions that we, at least on the Democratic side, have had between Intelligence and Homeland Security.

As mentioned before, the Intelligence Committee has jurisdiction over all intelligence programs in the federal government, including those within DHS. We have been able to work with the Homeland Security Committee to claim single jurisdiction over certain issues, for example, the inner workings of the Terrorist Threat Integration Center within the Intelligence Committee. We have collaborated closely in other areas, such as information sharing, the quality and access of intelligence sent to the IAIP Directorate, and the integration and use of terrorist watch lists.

This interaction among committees is standard practice for Intel Committee members. By House Rules, we have formal ties and shared membership with the Committees on Appropriations, Armed Services, International Relations and Judiciary.

This practice is longstanding and effective, and I would hope to have a similar relationship in future Congresses with the Homeland Security Committee.

Finally, I know this Subcommittee has heard views on whether a permanent Homeland Security Committee should be a Standing or a Select Committee. As Chairman Goss and I have some distinct experience with this issue, I have a few comments on this.

I thank the Subcommittee and will be happy to answer any questions you have.

Mr. DIAZ-BALART. Thank you Ms. Harman.

Thank you both.

Chairman Goss, in your written testimony, you pointed out, in your opinion, the greatest capability that the select committee, that this committee can and should provide to Congress is its focus on a single Department and the integration of the Department's many functions. Why is that so important in your opinion?

Mr. GOSS. Well, I think we have had testimony on that already. I think Ms. Harman just said it, and Mr. Weldon hit it with his chart very brilliantly. The issue of keeping the coordination of the various agencies properly working is clearly one of the main threads of our 9/11 review—the coordination, the horizontal coordination of the various Federal agencies—and we only do the intelligence community.

The Kean Commission is now doing the rest of them. And clearly there was a problem. And the President of the United States has spoken to that problem between the working relationship between the FBI as a law enforcement people in our country versus the overseas intelligence people. There is actually an interpretation of the statutes that there was a wall that forbid them from talking to each other, which we have done our best to make sure is a broken-down wall.

So I believe that we have learned by the mistakes of the past. We are able to—using our focus on the intelligence of over 15 agencies and reaching out to chairmen of other areas where we have jurisdictions to share, where we have similar matters, classified and unclassified, we have found good working arrangements that have prospered, I think, because we do have a focus on the national security of what we are trying to protect and what we are trying to do.

I think also the saving of time and so forth is very critical. The one area that I perhaps would also say with regard to Ms. Harman's point, I certainly agree there are some targets we should harden. And there are some very obvious vulnerabilities that we need to focus on.

But I think the President has also made it abundantly clear that defense alone does not work. You have to have the offense. You have to have a progressive, forward-leaning, how do we get the information to prevent, to preempt. That means getting information. And I want to make darn sure there are a bunch of overseers who are totally focused on that balance between getting necessary information and not intruding on Americans.

And it seems to me a lot of that is going to land in the Department of Homeland Security and the overseers, which I would assume would be some carry-on of this committee.

Mr. DIAZ-BALART. In your testimony, which we so much appreciate, we appreciate so very much, you support permanence for this.

Mr. GOSS. Yes, I do.

Mr. DIAZ-BALART. As you pointed out, the intelligence committee is a permanent select committee which is a little bit different—

Mr. GOSS. Yes.

Mr. DIAZ-BALART. Than, obviously, the standing committees, which are more numerous.

The select committee, the permanent select committee, obviously, has U.S. Government-wide jurisdiction over intelligence and intelligence-related activities. In your experience, can you point to any pros and cons of a permanent select in dealing with such broad subject matters, such a broad subject matter?

Mr. GOSS. Yes. I certainly can Mr. Chairman. I would say it is broad, but it is not so far as to bridge the separation of powers between the branches of government. There in no case has been, that I am aware of in our intelligence committee, a situation where the national security advisor would come and testify under oath before Congress or in fact even bring written documents.

But there has been a behind-the-scenes, comfortable working relationship with every Administration of being able to work things out that are of critical national security. And that is part of the beauty of the permanent select committee, which leads me to what the distinction between a Rule 10 committee, a standing committee and a select committee.

The advantage of the select committee is that the leadership of the minority and majority leadership select the people to be on a select committee. That, therefore, means that there is a closer wiring to the leadership, and the leadership put the people on those committees that are ready to go to do that work, to make the obligation, to make the commitments, to do the hard and very focused work of the select committee.

It is different than getting on the committee through the seniority and voting process of the regular standing committees. And I believe that that extra element of selectness, as it were, by leadership appointment very much aids and abets that close working relationship that you have to have to reach into the Executive Branch of Government to deal with the business that is necessary for our national security, even though we don't put it on the record, and we don't go under oath with each other. I think that is absolutely critically essential.

Ms. HARMAN. If I could just add to that Mr. Chairman?

Mr. DIAZ-BALART. Yes, Ms. Harman.

Ms. HARMAN. I agree, with respect to the Intelligence Committee. I think that element of selectness and the small size of the committee and the fact that most of our hearings and meetings are in closed session because we are dealing with classified information makes it different.

But I would not carry that over to the new version, the sleek, slimmed-down, more permanent version of that committee. I think this should be a regular standing committee of the House. I am not sure whether Mr. Goss was saying that or not.

Mr. GOSS. I was only answering the Chairman's question. Not making a preference.

Mr. DIAZ-BALART. Right. Ms. Harman certainly made a preference.

And Ms. Harman, obviously, are you supportive of permanency? And we have had the opportunity to read, and we will certainly hear later on today testimony from other committee leaders who have a different point-of-view.

Why do you think that your viewpoint is so different than the committee leaders who are going to basically support the status quo today in their testimony? Is it—do you think it is your intelligence experience or, perhaps, your exposure to the select committee?

Ms. HARMAN. I think it is my exposure to the issues that are involved here. Homeland Security is our number one priority as far as I am concerned. It is our number one vulnerability as well.

And if we don't think anew in this Congress, we are not going to protect the people we represent. You know, the dirtiest four-letter word in government is spelled T-U-R-F.

And I worry, and I am guilty of this as well, that if all we do up here is resist, build barricades and insist on doing business the old way, we keep America vulnerable.

So just as we insisted that the Executive Branch, by forming the Department of Homeland Security and breaking a lot of china to get there, I think we have to insist that Congress change to match the threats and help add value to defeating the threats of the 21st century.

Mr. DIAZ-BALART. Well, I want to welcome, at this point, Mrs. Slaughter, our distinguished ranking member who was tied up. Do you have any comments at this point?

Ms. SLAUGHTER. Yes. Thank you, Mr. Chairman.

First, I want to apologize. The Rules Committee, as the Members here know, is now working on the budget. And my staff told me that I was urgently needed there. So the word urgent drew me right to the committee. Only I realized that my urgency is needed here.

I am sorry I did not hear your testimony. Both of you are people I highly respect and highly regard on all issues and certainly including this one.

I have been told that you have both supported a permanent committee. And I think I would agree with you. If that agency is going to be out there working, I think it is going to require a great deal of oversight. The committee, I think, has worked well together, and I appreciate what we are doing.

It is very difficult, again, without the threat assessment. I know I met just last week with a group of my first responders, and I keep trying to explain to them that they are not going to get the money until everything gets straightened out and we know where we need to go. But that is wearing really thin on them. Their overtime and the money they have spent is really extraordinary.

Ms. SLAUGHTER. But tell me, if they do decide to do a permanent committee, how do you think it ought to be done? Would it remain a select committee—and can't be if its permanent—but would we keep the same members? What are your recommendations?

Mr. GOSS. I suggested that there are pluses and minuses to either using Rule 10 and going with the standing committee.

My concern on the standing committee, obviously, is that you have people going on the committee more on the basis of seniority

rather than on the basis—or the voting system of the way we put people on standing committees that may not get exactly the people who are exactly the right, most qualified people to go to the committee.

I worry a little bit about the size of the committee, and I certainly worry about the turf wars that would go on between standing committees. I think those are all problems.

On the other hand, the cache of having a standing committee does help. If it becomes just another authorizing committee and doesn't have the proper linkage with the Appropriations Committee, however, then it runs the risk of becoming somewhat irrelevant, as the authorizing committees sometimes do, it seems, on the strong appropriations process we have here now.

Those are considerations. They don't lead to you one conclusion or the other. On the select committee, I tend to believe the smallness, the focus of the select committee, allowing the leadership to appoint the members is a very critical factor. It gives the flexibility and a certain responsiveness to the top leadership and keeps the top leadership of the House, minority and majority, involved in the process. I think that is a very important benefit.

So I am not prepared to say which is the best. But I do believe it ought to be one or the other.

Ms. SLAUGHTER. One or the other.

Ms. Harman?

Ms. HARMAN. Well, I think it should be smaller. Looking at all of these Floridians, I would recommend the South Beach Diet for this committee. And I think it should be designed in a way that it becomes a desirable place to serve, a destination for many of the ambitious and smart Members of the House.

And so I think, as we do this, we might reconsider some of the—I know how hard this is—but some of the jurisdiction of some of the older committees. And we should make our House look like the landscape of the 21st century.

And when we think about this, the large—second largest department in the Government is the Department of Homeland Security. The largest is the Department of Defense. And the largest set of threats against our country are ones that this Department has major jurisdiction to deal with.

So I think this should be a major committee, a major focus of a redesigned committee structure in the Congress.

Ms. SLAUGHTER. Well, I know that, in putting this together, they put most of the committee chairs on so that we could try to control any unruliness there. But given the fact that many of them have jurisdiction already over parts of this, are you both recommending that that be taken away from them and put into Homeland Security?

Mr. GOSS. Well, speaking for the Rules Committee, I don't think there is much jurisdictional quarrel.

Ms. SLAUGHTER. No. We don't have much of a dog in that fight, do we?

Mr. GOSS. And I don't think we need to worry about that.

Speaking for the Intelligence Committee I did testify that I felt we have a very unique working arrangement worked out with the intelligence community about how we manage classified informa-

tion which has evolved over a great number of decades since we put the National Security Act together in 1947.

I think it is working extremely well, and I would not want to change that. You may call that guarding turf. I think it is just common sense. If you have something that is, working why break it?

Ms. SLAUGHTER. You wouldn't care to comment on the Committees of Appropriations and Transportation, Ways and Means, any of the rest of them?

Mr. GOSS. On the turf?

Ms. SLAUGHTER. Yes.

Mr. GOSS. Actually, I did comment, in my opening comments and in my aside remarks as well. We have reached out. I mean, we do business with 15 separate agencies that are in various cabinet secretary agencies around. So I am dealing with secretaries of this or that, the Secretary of Defense, Secretary of State, Treasury, Attorney General, so forth, all these people on a regular basis.

We don't have any problem reaching out either into the Executive Branch on our business. We don't get into other people's business. We just do the classified intelligence piece of that.

And we also don't have any trouble reaching out to the various chairmen and ranking members of those authorizing committees, and we do work very closely with the appropriators. We have to.

Ms. SLAUGHTER. And that is fine. But do you see that this could be translated over to a select committee on homeland security?

Mr. GOSS. To a select committee on homeland Security?

Ms. SLAUGHTER. Or a permanent committee. One or the other. How do you think it will work?

Mr. GOSS. I think it will work. I think it will work better with a select committee because we have been able to make it work that way, and I notice it hasn't worked quite that way with some of the standing committees.

But it also has worked with some standing committees, so you can take that either way. It depends a little bit on the relationships and leadership of the various committees and where the chemistry is.

But my view is, it is easier with a permanent select committee specifically. That is not a preference, it is just a view that that aspect is easier with the select committee.

Ms. HARMAN. I would just add that the goal is to make Congress more effective in overseeing the Department of Homeland Security and to make our homeland security effort more effective. And that is what we should focus on, not how do I keep as much turf as I already had, wherever it is that I may be.

I do agree with Chairman Goss that there are some unique aspects to the House Intelligence Committee that couldn't easily be transferred, but I don't want to be heard to say every ounce of turf as is has to be protected. I really think as we have organized, reorganized the Executive Branch, we have to be prepared to consider seriously reorganizing Congress.

Ms. SLAUGHTER. Thank you.

Mr. DIAZ-BALART. Chairman Cox?

Mr. COX. Thank you. And I want to thank you as much for your response to the questions as for your formal prepared testimony and your opening because it is really helpful, to us and the inter-

section between your responsibilities as Members of the Homeland Security Committee and your permanent jobs on the Permanent Select Committee on Intelligence couldn't be closer and more important.

I just want to begin by recognizing the complete agreement that I have with Chairman Goss, and his testimony concerning the importance of defining homeland security. It is a work in progress, as you know. It is still under definition. And I think that if we are to succeed in protecting the country, we have to get away from that notion that Homeland Security is in the eye of the beholder, that it is meaning is as meaning does and that we can morph it into anything convenient particularly for the purposes of funding programs.

That is one of the reasons I think there needs to be rigorous congressional focus, not just from an oversight standpoint, but from a legislative standpoint and authorization standpoint on what this Department does. And particularly, I say that because, while the Department can be and we intended it to be when we just wrote the Homeland Security Act a short while ago, a bulwark against a parade of horrible things that might happen to us, it also has a dystopian future if we let it become what it might in our worst imaginings, a Department of Homeland Security that is bound to grow.

Long after we are gone, the Department will still be there. Several decades from now it will still be growing. It will be much bigger, and it is going to grow into something. The importance of our job right now is that we are going to orient it and maybe a few degrees this way, a few degrees that way, and it will have profound consequences 10, 20 years down the road.

So this definition is just absolutely essential. But here is part of the dystopian vision of what Homeland Security Department run amuck would look like. First, it would be a threat on all of our civil liberties. Second, it would be a regulator of every corner of American life and every aspect of American commerce. Third, it would be the excuse for federalizing virtually every State function and every private sector function. And fourth, it would be the ruin of the Federal budget.

It can be all of these things if we let it stray from its mission as stated clearly, which is threefold: First, to protect; second, to prevent; and, third, to respond. Those three must, it seems to me, define the Department and thus the jurisdiction of any committee that oversees it to the exclusion of all else.

If you let other things—it is just as important to keep things out, not only of congressional jurisdiction but also the Department's own jurisdiction, as it is to put all these 22 agencies together and to make them work together.

So I think we have to recognize the importance of the job we are doing here in Congress, because it isn't just about our turf. It isn't just about how we organized ourselves. How we make these choices will have immediate and long-lasting consequences for real life over the Department of Homeland Security and us there for the rest of the country.

The first mission, which is the most important of the three, preventing terrorism relies heavily on an intelligence component.

Rather clearly in the charter that we wrote for the Homeland Security Department there isn't a foreign intelligence collection responsibility at all.

So for starters, one of the things that is squarely within your jurisdiction should be not only squarely outside the jurisdiction of any future homeland security committee, but also outside the jurisdiction of, now or in the future, the Department of Homeland Security. We don't want them in that business.

Second, the Department of Homeland Security really doesn't collect much in the way of domestic intelligence. I suppose if we have an asterisk or a footnote, we should acknowledge that the Coast Guard probably collects some foreign intelligence, and certainly, the Secret Service receives foreign intelligence.

But, you know, in the collection area, the responsibilities of the Department are very slim and for the most part, we have chartered it to focus on the fusion of intelligence from all sources and the analysis of that intelligence. And just as importantly, although it is not expressed in precisely these terms in the act, the Department has the authority and the responsibility to place requirements on the intelligence community.

So the intersection, from a jurisdiction standpoint, occurs at this fusion place. And the reason that we have the Department of Homeland Security with an IA directorate is that we thought, as a Congress, the House and the Senate, the Democrats and Republicans, about leaving this in the intelligence community as presently comprised.

And it frightened us, as we looked over that precipice, to think about what would happen to the walls that we have built so carefully about the collection of, particularly, foreign intelligence as we define in the intelligence community and what we expect Homeland Security to be all about, back to this definition, which is our own back yard.

And we are talking about getting in touch with our mayors, with our law enforcement. We are talking about, you know, placing requirements to collection, not just overseas, but with the FBI, all of the FISA concerns that you have already with the Judiciary Committee, all of those things are going to go on at the same time that foreign intelligence is being analyzed and in the same place.

Better to put that in a Department of Homeland Security with a strong civil liberties protection component than to expand the notion of intelligence collection based on the old model, given all of that history and the fact that the Homeland Security Act, which I have in front of me, amends the National Security Act, by definition, including within the intelligence community, the foreign intelligence analysis component of DHS, not the domestic analysis and not any collection.

I just want to place before you both the question about where you think the Department belongs in this picture, first, and whether you agree with my assumption that, at a maximum, the jurisdiction of this committee should not extend beyond the Department itself.

You know, obviously, there are major aspects of Homeland Security that fall outside the Department, and I don't know whether anybody has in mind suggesting that the Department's jurisdiction

be only the minimum and not the maximum of what the committee would look at. So I would ask you both to opine on both of those questions.

Mr. GOSS. I think it is the hardest question. The debate is going on in our country about—most Americans, on a given day, count on the United States Government as a certain amount of protection depending on what the threat is of the day, whether there is a sniper loose or something else. Mood swings on that. And equally, most Americans are in distress over the thought that somebody might be checking their library records.

So you have this balance problem which is why the oversight is so important. Now, I believe the essence of Homeland Security and national security is preemptive. It is preventative. I think that if we are very good at cleaning up after the bomb goes off, that's terrific. And Thank God we have the men and women who do that and have done it so well.

But honestly, the mission should be to stop the bomb from going off. That means having the information. Okay. The foreign intelligence pattern is pretty clear. It works. We have the template. It is set up.

The problem is, where do you plug it in to Homeland Security, since we don't have a domestic intelligence agency? That has always been the point where we have not found a plug that fits the receptacle.

Some of us thought when we put together the Department of Homeland Security, we would do it all in Homeland Security. We would create a fire hose that came in from domestic intelligence and foreign intelligence. It would go into a room where there were analysts, and they would be able to task either local or foreign assets, and they would be able to preempt doing that.

For whatever reasons, we didn't set it up that way. We set it up differently. The bill that came out, the bill that was signed by the President came out and the—what I call the nerve center is now dependent on outside forces, TTIC, which are basically now the foreign intelligence program led by a CIA person.

Now that is very helpful to preserve the myth that Americans don't spy on Americans. But it is also—the camel's nose is well into the tent on the subject. So let's forget that and stop kidding ourselves and just get to the point and say, how are we going to get domestic information so that we can provide American security and, at the same time, provide them the safeguards that that is not being abused, that their liberties and freedoms are not being preempted by the Federal Government under the guise of giving them protection?

I don't think that is as much an organizational question as a question of efficiency, is, how can you get that job done? I think, down the road, we may change our mind on that, on how we are doing it right now.

I was skeptical that the way the TTIC was set up would work very well. Actually, it seems to be pulling itself together fairly well because we have such a huge difference between the size of fire hoses coming in to the fusion center. I believe that will change in time, after we get a better definition of what Homeland Security

is and what we are allowed to do under the PATRIOT Act and other type things.

Because if we are going to have preemptive law enforcement, I am not quite sure, just from a practical point of view, forget the legal problems, how I explain this in my town meeting when I go home.

What is preemptive law enforcement? How do I know you are about to break the law until you have broken the law? And if it is setting off a bomb, it is a big breaking of the law.

Those are the issues. I don't think they solve organizationally. I don't think your answer lies in the organization. But there has to be resolve.

And I will go on to answer your question specifically and say, yes, I think it is the Department of Homeland Security's responsibility to respond to the issue of how you handle domestic information that is preemptive to a bad action, how you task to get more of that information and how you have an action element all in Homeland Security that can actually go arrest those people before they pull the trigger.

I think that is what I see is the future of Homeland Security. But I still see the major component of the intelligence processing component being in the foreign intelligence program because it is the dominant, hugely dominant, partner of the information and probably always will be, given our sensitivity to our civil liberties.

Mr. COX. Mr. Chairman I don't want to ask any additional questions. But if you would permit, I would just ask for further clarification on that one point.

TTIC, right now, is essentially funded out of the foreign intelligence budget, all be it getting funded.

Mr. GOSS. Yes.

Mr. COX. But are you suggesting that TTIC actually belongs within the foreign intelligence construct even though it is supposed to be—

Mr. GOSS. I think that we have actually come up—

Mr. COX. Domestic and foreign.

Mr. GOSS. I think it is meant to bridge the gap. I think that is the purpose of TTIC. The Terrorist Threat Intelligence Center, the Terrorist Threat Information Center, when does information become intelligence, and is that where the line gets crossed and it is a no go?

I mean, we have been very cute about how we have handled this. I think, actually, we have stumbled into something that is working fairly well and can work for a while. I think it is the least of our problems right now. I am not prepared to answer your question for all times. For where it is now, I think it is working right, and I think we have it set up about right.

Ms. HARMAN. If I could just add for 30 seconds to that comment?

I think TTIC is one of the success stories of the moment. We didn't intend that it exist. The President took the initiative in his State of the Union message in 2003, and I give him great credit for coming up with something that would work in this moment.

So I think that TTIC actually can inform our efforts to reform the intelligence community. Fusion and integration are the way we

have to go in the intelligence community. That is not the subject for today.

All I wanted to say to Chairman Cox was that your notion of simplifying the jurisdiction, limiting the jurisdiction here and, perhaps, limiting the focus of the Department of Homeland Security over time so that they are congruent is, I think, an excellent idea.

If this committee has a more limited jurisdiction it will fit better in the organization of Congress, and I think it then will have a better shot at becoming a destination committee for Congress, which we want. We want the most talented people in Congress to want to serve on this committee.

But I also think that limiting the jurisdiction of this behemoth Department of Homeland Security that we are trying to cobble together will help it succeed and perform its critical missions and you have defined them very well.

Mr. DIAZ-BALART. I have been informed about your meeting at 2:00. I would like to recognize Mr. Weldon, who has been here patiently, and I know he will be brief.

Mr. WELDON. Two questions. First of all, on the jurisdictional areas. I have spent the past 5 years with a very frustrating challenge that resulted from a 1999 trip that 11 Members of Congress took to Vienna with me, five Democrats and five Republicans, to try to work out with the Russians a compromise that would end Milosevic's reign. The Russians brought with them a Serbian who they claimed could assist them. I called George Tenet up and asked for a profile of this family and this man, and he called me back and said, well, Congressman, we don't have much on him. We can give you a couple of lines. And they did.

I later got a memo, which I still have, from a CIA employee who told me he checked the internal files of the agency, and they didn't have anything at all except for this one person in the family, which wasn't the person we were meeting with.

I was then the chairman of the Research and Development Committee for the military and supporting the Army's Information Dominance Center known as LIWA down at Fort Belvoir, and asked them to unofficially run a profile for me of this person, and they gave me five pages of information. Now, granted the process wasn't very sophisticated, it wasn't a full vetting process, which was a problem. But here, they gave me five pages of information about this family because they had data mining and data fusion capability. I came back, and the CIA and the FBI both called me and asked me to brief them on the family I had met with, and I told them everything they asked to know, four agents in 2 hours. And when I finished, I said, you know where I got my data from? Well, yeah, you got it from the Russians. No. You got it from the family. No. I said, before I left I went to the Army's Information Dominance Center where they have a prototype with Raytheon and other companies, and they gave me five pages of information. And the CIA and FBI people said, what is the Army's Information Dominance Center?

From that point, working with intelligence people we put together what was then called the NOAH, National Operations Analysis Hub, a nine-page brief to create what is now called the TTIC. But this was back in 1999. We put language in two successive de-

fense bills that called for DOD to support with money the creation of this entity, the 2000, 2001 defense bills.

John Hamre, then Deputy Secretary of Defense, told me, Congressman, I will pay for it, but you have got to get the other agencies to agree. He suggested I have a meeting in my office with his counterparts, the CIA and the FBI, which I did 1 year before 9/11. I have the date and I have the people who attended. And for 1 hour, four of us, John Hamre, Deputy Director of CIA, Deputy Director of FBI, talked about creating a NOAH. And the response by the agencies—other agencies were, we don't need it.

So my question is, from the standpoint of data fusion and data—I am glad we have the TTIC and I was glad the President mentioned it in the State of the Union speech last year. We should have had that back in 1999 and 2000 when people from the Intelligence Community knew full well that there was a need to have this data fusion and data mining capability. And so the process then was to link together 33 classified systems that our various agencies have.

I want to ask you both for the record or now, are you satisfied that TTIC in fact has done that? And are you satisfied that in your committee as it currently stands you have enough jurisdiction over those 33 systems?

Mr. GOSS. The answer is I am not satisfied with the system at all. It has a long way to go for secure coms and other matters. There is still some residual, what I will call cultural problems. It is much improved. I think there is clearly a mission objective now that is understood, there is a vision about it.

Do I feel we have the jurisdiction to deal with it? I do. I have the same frustration that you do, because we have been banging on this particular thing for as long as you have. And we appreciate your assistance on it. I know the work you have done.

Part of the problem, incidentally, with the Dominance Center was it scared the heck out of some people about the civil liberties question, which is still part of the debate and still going on. So, and that debate is going to go on. So that does create an extra obstacle?

But, no, it is not as good as it needs to be. It is clear, we understand what we need to do. Now all we have to do is get it done. But we haven't got it done yet, and that is one of the things I believe DHS can do.

Mr. WELDON. Perhaps I could ask my second question to Ms. Harman, if she would take it. And that is, are you satisfied that the Intel Committee is going to be able to deal with the integration of—vertical and horizontal integration of intelligence for the first responder, which is a big challenge? Are you satisfied that that is a role that you all can play?

Ms. HARMAN. It is certainly a priority for us. Info sharing was one of the big problems leading up to 9/11. And I only wish your meeting had resulted in TTIC, standing up TTIC in the year 1999 or 2000. It would have made a huge difference. But we do focus on it. I have paid certainly visits to TTIC; I recommend that to others. I know Chairman Cox has been there. Its focus is not just to fuse the data, but then to get it out vertically down to our hometowns, and not only to get it down but to get data from our hometowns up. And the methods of communication are impressive because

they can strip out sources and methods, which means that the local cop on the beat without the security clearance can get the information he or she needs to know what to do.

And I think we are a lot farther along in that effort now than we were a year ago. And I do think that the new streamlined, smaller, more effective, permanent in some form committee focusing on homeland security should keep a focus on information sharing, should make sure that first responders have tools in the event that we can't prevent the attack in the first place. In fact, let me amend that. They may be the ones who prevent the attack if they have the right information.

Mr. WELDON. Thank you.

Mr. GOSS. May I add just to that, we have actually seen a successful example of that. It turned out we were wrong, but we had a person overheard a conversation in a restaurant in Georgia, phoned ahead to some police people in Florida; they got down to the local sheriff in my county down in Collier County, and they shut down I–75. They actually arrested a car full of people. Now, as it turned out, they were on a benign mission, but they had been saying some things to try and create a little story, more like a prank, and the system worked. Everybody played by the rules and the system worked. As I say, it turned out to be wrong. But if they had been real terrorists, it would have been a very easy takedown. As it turned out, they weren't, and it caused us the inconvenience of shutting down I–75.

Mr. WELDON. Well, but you have also prototyped the JRIES system, which does that both in New York and California, and that is working extremely well from the standpoint of local responders.

Mr. GOSS. We have the solution. It is just a question of doing it.

Mr. DIAZ-BALART. Thank you, Chairman and Ranking Member. Thank you so much. You have been very helpful and you have been very kind.

We are honored with the presence of the chairman and the ranking member of the Committee on Agriculture. We welcome both of our distinguished colleagues. Again, welcome to both of you. And, Chairman Goodlatte.

**STATEMENT OF THE HONORABLE BOB GOODLATTE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VIRGINIA, AND CHAIRMAN**

Mr. GOODLATTE. Thank you very much Mr. Chairman. It is a pleasure to be with you and the other members of the subcommittee and Chairman Cox of the full committee.

We appreciate the invitation to provide testimony on how existing House rules and procedures may affect appropriate consideration of homeland security matters. I often hear cited the difficulty that will be faced by the newly created Department of Homeland Security by having to be responsive to upwards of 88 committees and subcommittees of the Congress and the exercise of their legislative oversight and appropriations responsibilities.

Some have said that this would be too daunting a task and have subsequently recommended that the new Department be relieved of the burden of so many prying eyes. I disagree. This is not an exercise in marking one's territory. Jurisdiction of the various commit-

tees and the subcommittees of the House of Representatives is divided not because of the cynic's view that Members of Congress seek to establish and hold onto bases of power. The jurisdiction of the various congressional committees and subcommittees have been established over time to mirror the complexity of the various issues with which the Congress has to deal. The fundamental responsibility of the committees and subcommittees of the House of Representatives is to ensure that the expertise exists to properly oversee the functioning of our Government. The process of dividing jurisdiction is dynamic, as it rightly should be. Changes, when they are made, are made to take into account the complexities of Federal programs we create and oversee. In most cases, this means that additional committees or subcommittees are created to provide additional perspective on issues. Seldom does this process engage to minimize the accountability of the Federal bureaucracy as would be the outcome if a new permanent standing Committee on Homeland Security were to be created.

When the Congress authorized the creation of the Department of Homeland Security, we vested in this new Department numerous diverse and complex programmatic responsibilities. We provided for the transfer of up to 3,200 employees from the Department of Agriculture, whose job it is to conduct inspections of people and commercial goods coming into our country that may intentionally or unintentionally be carrying pests or diseases that could be detrimental to U.S. agriculture.

Over the years, this function has involved the investment of billions of taxpayer dollars and had countless staff hours, education, and experience devoted to it.

While some may believe that the first and only responsibility of the Department of Homeland Security is protection of our Nation against acts of terrorism, I would underscore the fact that in the Agriculture Committee we are, and rightly should be, at least as concerned about the unintentional incidents since they are a constant threat. At risk is a food production system which is truly priceless. Those with experience in this field understand the old adage: An ounce of prevention is worth a pound of cure. If an accidental introduction of foot and mouth disease were to occur, it would cost our economy tens of billions of dollars.

In our zeal to focus attention on the intentional threat to America, we simply cannot neglect to protect ourselves from the historical threats that continue.

Let me be clear. In the Agriculture Committee we are concerned about both intentional and unintentional threats. My fear is that a standing Committee on Homeland Security, whose purpose it is to focus on the mitigation of terrorist threats, might not pay attention to or recognize the damage that is caused by unintentional introductions of plant or animal pests or disease.

In a hearing held to evaluate the proposed one-face-at-the-border proposal I used these examples to illustrate the importance of having sufficient expertise not only at our border inspection points but also in our oversight function. And before I show you these examples, I want to introduce a couple of people who are on the Agriculture Committee staff.

Now, when new Members of Congress become chairmen of committees, they have the discretion to change the entire committee staff or keep the committee staff. I must tell you that my approach, because of the nature of the Agriculture Committee, was to keep the, in some cases, decades of experience in very fine points on agriculture. Two of those folks are with me today. Elizabeth Parker, who is a veterinarian, and John Goldberg, who has a Ph.D. in animal and food science and is a microbiologist. These folks are involved on a day-to-day basis with the Department of Agriculture, with the agricultural community, and America's farmers and ranchers and food processors, to make absolutely certain that the fine-tuning of how our Government responds to threats to American agriculture of a wide variety of kinds are understood by the Department. The committee oftentimes is pointing out things to the Department that they haven't taken into consideration themselves. We are talking about the Department of Agriculture, not even the Department of Homeland Security.

So this is a very grave concern to us, that this kind of expertise will be lost if this jurisdiction is changed over to someplace else. I have a few examples of the kinds of things that come up.

These seeds that appear to be a matchbook, this is an item that is prohibited in passenger luggage without a phytosanitary certificate. The product is designed to look like a matchbook and could easily be overlooked. The risk is to plant pests and diseases.

This is a bonsai tree with silk flowers. The tree was declared as artificial, but is actually a live bonsai with the leaves removed and replaced with silk flowers. The risk is the live plants in the soil, and such importation can harbor diseases, insects, and nematodes.

This is a phytosanitary certificate dealing with prohibited nursery stock. It prohibited plum tree cuttings imported with a valid phytosanitary certificate. A phytosanitary certificate only attests to the origin and apparent freedom from pests and diseases. It cannot be used to determine enter-ability. Detailed regulatory knowledge is essential when conducting even seemingly routine inspections.

This is a prohibited melon seed from the Middle East misrepresented as pistachios, and the risk is a beetle that comes in these seeds.

This is a decorative bird's nest made from rice straw, and this is one of many types of handcrafts made from prohibited rice and wheat straw. These are typically declared as souvenirs, and a number of fungal and bacterial diseases may be contained in the rice.

This is a handicraft containing raw cotton, cotton litter, and cotton seed. Souvenirs such as stuffed toys and handicrafts contain prohibited agriculture materials. The risk is to pink bollworm, golden nematode, and flag smut.

This is canned soup from England that could pass as a U.S. product. It is Heinz Big Soup. The item is a product of England. It is prohibited because the ingredients include lamb, a ruminant, which is at risk for transmitting mad cow disease, and the risk of BSE, as we all know for the last several months, is a serious problem. It is heat resistant and survives the canning process, and is listed as a select agent under the Agricultural Bioterrorism Protection Act.

I don't want to bore you with too many of these, but let me show you one that is boneless duck from Taiwan, deceptively labeled as jerry fish. Packaging can sometimes be misleading. At a glance, this appears to be labeled as fish. Actually, this is boneless duck from Taiwan. Animal products must be carefully examined to ensure that they are what they appear to be. The risk here is exotic Newcastle's disease. It was a serious problem in southern California last year. END is listed as a selected agent under the Agricultural Bioterrorism Protection Act.

Mr. Chairman, with nearly 170,000 employees and countless missions and responsibilities, the function of the Department of Homeland Security lends itself to a functionally diverse oversight mechanism. I cannot see how a single standing committee with a normal staff can ever amass the expertise necessary to completely properly oversee this new Department. The Congress has a constitutional responsibility to ensure that sufficient resources are provided to review and analyze each of our Federal programs. A single standing committee on Homeland Security would have great difficulty in fulfilling this responsibility, and as such I would be skeptical of any effort to establish such a permanent standing committee.

I urge the subcommittee to be very cautious in considering changes to be made to the underlying jurisdictional structure of the House of Representatives. I would be pleased to answer any questions after you hear from my distinguished colleague.

PREPARED STATEMENT OF THE HONORABLE BOB GOODLATTE

Mr. Chairman, and Members of the Subcommittee, thank you for the invitation to provide testimony on how existing House rules and procedures may affect appropriate consideration of homeland security matters.

I often hear cited the difficulty that will be faced by the newly created Department of Homeland Security by having to be responsive to upwards of 88 Committees and Subcommittees of the Congress in the exercise of their legislative, oversight and appropriations responsibilities. Some have said that this would be too daunting a task and have subsequently recommended that the new Department be relieved of the burden of so many prying eyes. I disagree!

This is not an exercise in marking one's territory. Jurisdiction of the various Committees and Subcommittees of the House of Representatives is divided, not because of the cynic's view that Members of Congress seek to establish and hold onto bases of power. The jurisdiction of the various Congressional Committees and Subcommittees has been established over time to mirror the complexity of the various issues with which the Congress has to deal. The fundamental responsibility of the Committees and Subcommittees of the House of Representatives is to ensure that the expertise exists to properly oversee the functioning of our government.

The process of dividing jurisdiction is dynamic, as it rightly should be. Changes, when they are made, are made to take into account the complexities of Federal programs we create and oversee. In most cases, this means that additional Committees or Subcommittees are created to provide additional perspective on issues. Seldom is this process engaged to minimize the accountability of the Federal Bureaucracy as would be the outcome if a new permanent standing Committee on Homeland Security were to be created.

When the Congress authorized the creation of the Department of Homeland Security, we vested in this new department numerous diverse and complex programmatic responsibilities. From the Department of Agriculture, we provided for the transfer of up to 3,200 employees whose job it is to conduct inspections of people and commercial goods coming into our country that may intentionally or unintentionally be carrying pests or diseases that could be detrimental to US agriculture. Over the years, this function has involved the investment of billions of taxpayer dollars and had countless staff hours, education, and experience devoted to it.

While some may believe that the first and only responsibility of the Department of Homeland Security is protection of our nation against acts of terrorism, I would underscore the fact that in the Agriculture Committee, we are, and rightly should

be, at least as concerned about the unintentional incidents since they are a constant threat.

At risk is a food production system which is truly priceless. Those with experience in this field understand the old adage: "An ounce of prevention is worth a pound of cure." If an accidental introduction of Foot and Mouth Disease were to occur, it would cost our economy tens of billions of dollars. In our zeal to focus attention on the intentional threat to America, we simply cannot neglect to protect ourselves from the historical threats that continue.

Let me be clear, in the Agriculture Committee we are concerned about both intentional and unintentional threats. My fear is that a standing Committee on Homeland Security, whose purpose it is to focus on the mitigation of terrorist threats, might not pay attention to or recognize the damage that is caused by unintentional introductions of plant or animal pests or disease.

In a hearing held to evaluate the proposed "One Face at the Border" proposal, I used these examples to illustrate the importance of having sufficient expertise not only at our border inspection points, but also in our oversight function.

**PREPARED SLIDES: COPIES ARE MAINTAINED IN COMMITTEE FILES**

**Nursery Stock**

**Example 1—Seeds that Appear to be a Matchbook**

Seed for propagation—The item is prohibited in passenger luggage without a phytosanitary certificate. The product is designed to look like a matchbook and could easily be overlooked.

**RISK: Plant pests and diseases.**

**Example 2—Bonsai tree with Silk Flowers**

The tree was declared as artificial, but is actually a live bonsai with the leaves removed and replaced with silk flowers.

**RISK:** Live plant in soil. Such importations can harbor diseases, insects, and nematodes.

**Example 3—Nursery Stock and CITES**

This nut can be mistaken for a small coconut and released. Actually, this is a palm nut that is an endangered species (CITES II). The correct action is to authorize movement to a plant inspection station.

**RISK:** Plant diseases and violation of CITES regulations.

**Example 4—Prohibited Nursery Stock Accompanied by a Phytosanitary Certificate**

Prohibited plum tree cuttings imported with a valid phytosanitary certificate. A phytosanitary certificate only attests to the origin and apparent freedom from pests and diseases. It can not be used to determine enterability. Detailed regulatory knowledge is essential when conducting even seemingly routine inspections.

**RISK:** Plum pox virus (listed as a select agent under the Agricultural Bioterrorism Protection Act)

**Nonpropagative Plant Imports**

**Example 1—Misrepresented Melon Seed.**

Prohibited melon seed from the Middle East misrepresented as pistachios.

**RISK:** Khapra beetle.

**Example 2—Decorative Bird's Nest Made from Rice Straw**

This is one of many types of handicrafts made from prohibited rice and wheat straw. These are typically declared as souvenirs.

**RISK:** A number of fungal and bacterial diseases of rice.

**Example 3—Handicrafts Containing Raw Cotton, Cotton Litter, and Cotton Seed**

Souvenirs such as stuffed toys and handicrafts can contain prohibited agricultural materials.

**RISK:** Pink Bollworm, Golden Nematode, Flag Smut

**Animal Products**

**Example 1—Canned Soup from England That Could Pass for a U.S. Product**

Heinz Big Soup. The item is a Product of England and is prohibited. Ingredients include lamb (a ruminant) which is a risk for transmitting BSE.

**RISK:** Bovine Spongiform Encephalopathy (BSE). BSE is heat resistant and survives the canning process. BSE is listed as a select agent under the Agricultural Bioterrorism Protection Act.

**Example 2—Boneless Duck from Taiwan Deceptively Labeled as "Jerry Fish"**

Packaging can sometimes be misleading. At a glance, this appears to be labeled as fish. Actually, this is boneless duck from Taiwan. Animal products must be carefully examined to ensure that they are what they appear to be.

**RISK:** Exotic Newcastle's Disease (END). END is listed as a select agent under the Agricultural Bioterrorism Protection Act.

**Example 3—Cheese with Meat.**

Cheese with embedded salami originating in Europe is prohibited without a proper certificate of processing. Hard cheeses, which are normally enterable, may contain meat which changes the entry status. Knowledge of animal products and the associated risks is key to making correct regulatory decisions and preventing the entry of a foreign animal disease.

**RISK:** Foot and Mouth Disease(FMD). FMD is listed as a select agent under the Agricultural Bioterrorism Protection Act.

**CLOSING COMMENTS:**

With nearly 170,000 employees and countless missions and responsibilities, the creation of the Department of Homeland Security lends itself to a functionally diverse oversight mechanism. I cannot see how a single standing Committee with a nominal staff can ever amass the expertise necessary to properly oversee this new Department. The Congress has a Constitutional responsibility to ensure that sufficient resources are provided to review and analyze each of our Federal programs. A single standing Committee on Homeland Security would have great difficulty in fulfilling this responsibility and as such, I would be skeptical of any effort to establish such a permanent Standing Committee. I urge this Subcommittee to be very cautious in considering changes be made to the underlying jurisdictional structure of the House of Representatives.

I would be pleased to answer any questions you may have.

Mr. Diaz-Balart. Thank you, Mr. Chairman, and we will hear from the distinguished ranking member and then open to questions.

Mr. Stenholm.

## STATEMENT OF THE HONORABLE CHARLES W. STENHOLM, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS, AND RANKING MEMBER

Mr. STENHOLM. Thank you, Mr. Chairman. Thank you, Ranking Member Slaughter, members of the committee, thank you for allowing me to testify today. And let me first say I associate myself completely with the chairman's remarks.

The Agriculture Committee has a longstanding tradition of bipartisanship, and today is no exception. So I associate myself with his remarks, and would add a couple of others.

Mr. Chairman, last year testifying in favor of a Permanent Committee on Homeland Security, one of your outside witnesses justified his position by asking the question: Is the issue of homeland security important enough to warrant a separate committee focused exclusively on the policies, programs, and problems of homeland security?

In point of fact, I believe the correct question should have been: Is the issue of homeland security important enough to warrant getting our policies right? The answer there is clearly yes.

Mr. Chairman, creating the Department of Homeland Security was a major change in the organization of our government. The Department's success in every area is crucial to the security of our people. The Agriculture Committee has an interest in the transfer of functions of the Animal and Plant Health Inspection Service to the Department of Homeland Security. We understand the reason for the transfer. APHIS personnel have long performed a key border security role. The agency work is done under statutes developed over the years by the Agriculture Committee to address the many pests and diseases, as the chairman has shown you, that threaten our food and fiber production system. APHIS has done

that job well. We feel that the Agriculture Committee oversight of the agency provides the stability needed to ensure the ongoing success of this mission.

Mr. Chairman, you are more familiar than I with the various problems that have confronted the Department of Homeland Security in its infancy. However, I will provide an instance relating to the agriculture functions and how congressional oversight came into play.

Agriculture inspectors are stationed at ports and airports throughout the U.S. These 3,000-plus inspectors formerly with APHIS are responsible for screening arriving passengers and cargo for materials that might produce plant or animal diseases or pests. This work has been going on for more than a century and is a complex task. While the agency work is not focused solely on terrorism, as some have noted, a catastrophic animal disease doesn't care if it is introduced by a malicious terrorist or by a careless tourist. The effect is pretty much the same. However, the Department of Homeland Security proposed to eliminate the agriculture inspectors altogether and to disburse their duties among the uniformed Customs and Border Patrol officers.

This was a well-intended attempt at gaining efficiency for taxpayers. However, had that plan been implemented the impact on American agriculture and the subsequent cost to the taxpayers could have been astronomical. Our agricultural inspectors are highly trained professionals with years of science training. Many hold advanced degrees in disciplines like entomology or plant pathology. They undergo extensive training in disease identification, technical lab analysis, and interview methods. Under the DHS plan, the replacements would have had only 72 hours of training in agriculture disease and pest identification.

When members of the House Ag Committee learned of this plan, we immediately began the process of educating the DHS about the implications of their proposal. They came to understand the unworkable nature, even the danger of their plan, and ultimately scrapped it altogether, opting instead to keep the agriculture inspectors. In fact, DHS now plans to increase their total numbers.

This is a clear example of the critical need to keep the expertise of the committees of jurisdiction actively involved. Had the attention and oversight of our committee not been present in the case just mentioned, we might have left exposed to billions of dollars of damage the U.S. agricultural economy.

One example would be if an illness such as foot and mouth disease had unintentionally slipped into the country under the proposed DHS inspection plan.

Mr. Chairman, while I don't recommend the creation of a Permanent Homeland Security Committee, I do want to make clear that we need to increase our efforts to make sure the job of homeland security is done right. One thing history shows is this: While every proposal to realign jurisdiction sets out to solve the problem of jurisdictional overlaps, no plan can really get this job done.

In the early 1990s, the Joint Committee on the Organization of Congress provided the idea of using ad hoc committees to deal with crucial cost-cutting matters. I supported this. As you consider proposed changes to House rules, I urge you to consider giving more

life to the Speaker's little used rule 12 authority to refer matters to ad hoc committees.

Finally, Mr. Chairman, it was a good idea when House rules were amended to limit each Member to two committee assignments. Unfortunately, this rule has been thoroughly ignored. Today 125 Members of the House serve on three or more committees. We should strive to achieve the goal of the two-committee limit. Establishing another permanent committee will only make reaching that goal more difficult.

Mr. Chairman, thank you once again for this opportunity to testify.

PREPARED STATEMENT OF THE HONORABLE CHARLES W. STENHOLM

Mr. Chairman, Ranking Member Slaughter, and members of the Subcommittee, thank you for holding this hearing and giving us the opportunity to testify. The Select Committee has been directed to conduct a study of the operation and implementation of the rules of the House with respect to homeland security, and I commend you for seeking the testimony of interested committees.

Mr. Chairman, let me say that I am in complete agreement with the testimony of Chairman Goodlatte. The Agriculture Committee has a long-standing tradition of bipartisanship and takes very seriously its responsibility to work together to improve our nation's food and fiber production policies. Our colleagues believe this work is one of the most important jobs they have in this House.

Clearly, the task of the Select Committee on Homeland Security is equally important. I am encouraged by the bipartisan manner in which you've undertaken your effort to explore possible needed changes to House Rules, and I know that you will give every consideration to the many issues that will be raised as you proceed.

Mr. Chairman, testifying in favor of a permanent Committee on Homeland Security last year, one of your outside witnesses justified his position by asking the question: "Is the issue of homeland security important enough to warrant a separate committee focused exclusively on the policies, programs, and problems of homeland security" In point of fact, I believe the *correct question* to be: "Is the issue of homeland security important enough to warrant getting our policies right?" The answer there is clearly "Yes."

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Agricultural inspectors are stationed at ports and airports throughout the US. These 3000+ inspectors—formerly with APHIS—are responsible for screening arriving passengers and cargo for materials that might introduce plant or animal diseases or pests. his work has been going on for more than a century and is a complex task. While the agency's work is not focused solely on terrorism, as some have noted, a catastrophic animal disease doesn't care if it is introduced by a malicious terrorist or by a careless tourist; the effect is pretty much the same.

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Mr. Chairman, while I don't recommend the creation of a permanent Homeland Security Committee, I do want to make clear that we need to increase our efforts to make sure the job of homeland security is done right. One thing history shows is this: while every proposal to realign jurisdiction sets out to solve the problem of jurisdictional overlaps, no plan can really get this job done. In the early 1990's, the Joint Committee on the Organization of Congress revived the idea of using ad hoc committees to deal with crucial, cross-cutting matters; I supported this. As you consider proposed changes to House Rules, I urge you to consider giving more life to the Speaker's little-used Rule 12 authority to refer matters to ad hoc committees.

Finally, Mr. Chairman, it was a good idea when House Rules were amended to limit each Member to two committee assignments. Unfortunately, this rule has been thoroughly ignored. Today, 125 Members of the House serve on three or more committees. We should strive to achieve the goal of the two-committee limit. Establishing another permanent committee will only make reaching that goal more difficult.

Mr. Chairman, thank you once again for the opportunity to testify. I look forward to working with the Select Committee as it continues its process of reviewing House Rules.

Mr. DIAZ-BALART. Thank you, Mr. Stenholm, and thank you, Chairman Goodlatte.

Following up on one of the points that you brought out, Chairman Goodlatte, let me say first for the record that I do not believe that any of this subcommittee's previous witnesses in prior hearings nor anyone on the dais today have supported creating a Permanent Committee on Homeland Security without the necessary member and staff expertise necessary to get the job done right.

In Chairman Bill Young's submitted written statement, for example, he explains that when his committee reorganized they also shifted key members and staff to the new Subcommittee on Homeland Security Appropriations. Certainly, a shift of jurisdiction among standing committees would necessitate a similar shift in members and staff. I certainly would not support a proposal that does not account for the need to harness the expertise, some of which you have referred to with very brilliant members of your staff, of each of the current standing committees.

If we remove that argument, thus, Mr. Chairman, are you still testifying today that a permanent committee with a primary focus on homeland security issues, including integration and coordination, would not be of benefit to the fledgling Department of Homeland Security and the American people?

Mr. GOODLATTE. Mr. Chairman, first of all, I don't think you can remove that argument because these folks—and there are many, many more on the committeess staff who have expertise in various areas for this one small segment from the Department of Homeland Security's perspective some 3,000 employees out of 170,000. These commmittee staff are used not just for this area, but they are used for all of the different issues that the Department of Agriculture and the Agriculture Committee have to deal with related

to animal and plant health science. There would be an enormous duplication of that, and, quite frankly, a waste of resources if these folks were duplicated on the Department of Homeland Security for the purpose of fulfilling that purpose.

I believe that the Agriculture Committee, which spends every minute of every day living and breathing these issues, and looking at it from a comprehensive standpoint from the chairman of the committee and the ranking member right through the committee's staff to deal with these things could not be replicated in a new committee that has so many other responsibilities unrelated to this major concern for agriculture, but I believe not major concern for the Department of Homeland Security. I think the evidence of that is in the approach they took before we spoke out, as Congressman Stenholm said, toward designing the one-face-at-the-border program. They have made a number of improvements to it, and I applaud that. But that was not their perspective on how to proceed. The oversight capability of poking holes in that comes about through the expertise of the Agriculture Committee and is not likely to be duplicated in a segment of a new Homeland Security Committee.

Mr. DIAZ-BALART. Mr. Chairman, according to most homeland security experts, one of the most critical issues facing the Nation is the threat of agro-terrorism. Do you believe that it is important for Congress to focus on that threat?

Mr. GOODLATTE. Absolutely. And we focus on that, and as a member of the Homeland Security Committee I work to make sure that the committee focuses on that. We are certainly very much dedicated to the Department of Agriculture focusing on it, and they do focus on it. Frankly, agro-terrorism is not simply an issue that is going to be detected and stopped at our borders. It is something that can take place in the interior of our country, and we have to have every member of the Department of Agriculture's staff and America's farmers and ranchers all working in coordination to fight agro-terrorism, because it can happen on anybody's farm anywhere and then spread rapidly around the country.

So, again, I think the focus needs to be where the large numbers of experts are that, again, can't be replicated by the Department of Homeland Security to contribute to that effort on agro-terrorism, which certainly the Department of Homeland Security has an interest in as well, and we support. But we think that the oversight of that effort with these agricultural agents at the border ought to be overseen by the Agriculture Committee.

Mr. DIAZ-BALART. Mr. Chairman, has the Agriculture Committee held any hearings in the area of agro-terrorism?

Mr. GOODLATTE. We meet on a daily basis met with the folks with the Department of Agriculture. But holding hearings on an issue where the public knowledge about what can and could happen here is not always desirable. We have had private briefings on this issue, but we have not had public hearings on it that I am aware of, at least not in the 1 year that I have been chairman. If we saw the necessity of holding public hearings on the issue in such a way that we did not feel that we were educating terrorists on how to carry out their attacks, we would certainly do so. But we think that most of this needs to be done in a different fashion.

Mr. DIAZ-BALART. I am glad you do see the importance of the issue to the safety of the Nation.

Mr. GOODLATTE. Absolutely.

Mr. DIAZ-BALART. And I would like to ask, I am thinking about, Ranking Member Stenholm, the thrust of your testimony, for which I thank you both for your kindness and your time.

I guess what I was hearing through your testimony, Mr. Stenholm, is your concern that a new committee focused on homeland security would, or certainly might, lead to the ignoring of traditional missions of some of the agencies now within the Department of Homeland Security, and you were concerned. Certainly I think I heard that in your testimony.

Mr. STENHOLM. Yes, sir, Mr. Chairman. That was the concern. And as I pointed out, we have—animal and plant diseases can be introduced under agro-terrorism, or they can be introduced naturally, or they can be brought in innocently by humans. And, therefore, the overall function of our inspectors is, yes, to be helpful in providing, as Chairman Cox mentioned a moment ago, finding the bad guys before they do the bad deed. That is one function. But also it is also internal, as the chairman has pointed out, that it is an ongoing, everyday occurrence, an everyday responsibility that we have for purposes of protecting our Nation's food supply. And, therefore, the division of responsibilities in that area could be very detrimental.

Mr. DIAZ-BALART. I certainly sensed, as I say, the thrust of your argument. I guess the flip side is continuing the status quo perhaps could result in the opposite problem. In other words, you focused in on the danger that there might be some traditional missions ignored. The flip side is that the opposite could result.

I guess, what do you think is the greater risk, Mr. Stenholm? That we focus too heavily on homeland security, or not enough on homeland security?

Mr. STENHOLM. The greatest risk would be not enough. That is something the House Agriculture Committee—we held a hearing on individual animal identification as part of our food safety concerns devoted on BSE, for example, just a couple of weeks ago. A lot of concern in this country in the beef industry about that, and making sure that we do everything humanly possible to continue to assure the American public consumer that our food supply is safe. That takes many different directions, as we do. But the danger to all of us is not doing enough and making sure that the resources we have are used efficiently.

Mr. DIAZ-BALART. Ms. Slaughter.

Ms. SLAUGHTER. Thank you very much.

There was a meeting here sometime this week that one of my—a fellow in my office attended about BSE. And one of the questions she brought up, since they have come up with this freon technology, was could they be adapted as a terrorist tool to infect the agriculture in the United States? And the response from the expert was, yes, they could. I wonder if your committee has given any thought to anything like that?

Mr. GOODLATTE. Well, we have had hearings on BSE in addition to the hearing that Congressman Stenholm referred to. I wouldn't want to offer my personal expertise on whether it could be trans-

missible, but I think it could be a terrorist issue because the introduction of animals with BSE into the country could be deliberately done. The economic impact of doing so could be devastating, far worse than the one incident that we have had which brought about a 20 percent reduction in beef prices upon learning that the one cow had come here from Canada.

Ms. SLAUGHTER. This was not necessarily a cow. This was the agent that is associated with BSE which could be adapted itself to infect many kinds of animals. But anyway, I just wanted to bring that to your attention, is something that I would appreciate if you could kind of give a look at.

Have you provided any oversight to the Animal and Plant Health Inspection Service?

Mr. GOODLATTE. We have indeed, and we have done that at the full committee level and at the subcommittee level. And I stand corrected by my staff. We did hold a hearing on this subject, my predecessor did, following September 11, and it was very much related to this issue of what is the best way to conduct oversight and to utilize the expertise both of the Department of Agriculture and the committee's expertise in overseeing what is being done to combat bioterrorism.

Ms. SLAUGHTER. How do they feel their integration is going into DHS?

Mr. GOODLATTE. Well, a hearing was held in this committee, at which I expressed very grave concerns about to the director of the one-face-at-the-border program about the initial plans. This was following several other discussions that had taken place at the member level and the staff level in order to impress upon them our grave concern that they were overlooking a number of things in the establishment of that program. And, as Congressman Stenholm notes, substantial changes were made to preserve the animal inspection system as an independent system, merged in with the one-face-at-the-border, but nonetheless have that distinct agricultural expertise preserved. But as has been noted, and you have noted, Congresswoman Slaughter, this is not just a problem at the border, it is a problem everywhere in the country. We have 100,000 Department of Agriculture employees who all play a role on a regular basis in educating farmers and making sure that they are aware of necessary precautions that need to be taken not only for the deliberate introduction of biological agents that could cause serious harm, but for the much more likely introduction inadvertently of these things. Because that happens on a regular basis, and finding it and rooting it out, destroying it and dealing with it is one of the principal jobs of many sectors of the Department of Agriculture.

Ms. SLAUGHTER. Absolutely. But one of the things I mentioned then is the border security inspections functions of APHIS from this initial thing. Do you think that there is a disadvantage to—as you pointed out, you have asked that that be kept separate? How does—they separate—this party is separated from the actual Department of Agriculture, is that correct?

Mr. GOODLATTE. Yes. APHIS was effectively split. I voted for the creation of that after the assurances were made that the policy regarding agricultural issues would remain with the Department of Agriculture and the policy setting jurisdiction would remain with

the Agriculture Committee in the Congress. And I think that is a good arrangement.

I can see that there are certain advantages to having a coordinated effort at the border, and we recognize that, as long as the expertise that is needed for agriculture is not lost in that coordination. We were concerned, but I think the process worked in that the Agriculture Committee, both the staff and the members, stepped up to the plate and complained about that, and that brought about a change that has improved that one-face-at-the-border program.

Ms. SLAUGHTER. You don't think that portends any problem with other committees if we were to make this a permanent select, select or permanent committee? Not being able to give up the jurisdiction?

Mr. GOODLATTE. I can't speak for the individual problems of other committees. I am aware of the specific concerns that we have. I can envision that there would be other concerns expressed by other committees, but as to whether those can be worked through or not, I wouldn't want to offer my testimony.

Ms. SLAUGHTER. Mr. Stenholm? Any comment?

Mr. STENHOLM. Yes. I have 25 years of experience dealing with the frustrations of the bureaucracy as it influences my decisions in what I recommend to you today. It has been extremely difficult getting the various agencies of the United States Department of Agriculture to cooperate together. There is this stovepiping, this constant turf battles that go on that is extremely frustrating.

But in this case, for this committee, I too join and support it, as the chairman did, the movement, because it made sense to have the authority placed in Homeland Security, but provided you didn't lose the oversight and the expertise of the specific functions that did not necessarily deal with human terrorists but with the agroterrorism. That made sense and still makes sense, provided you continue that type of an arrangement, and that is what we are here testifying today for.

But you—this create—when we created the biggest bureaucracy in the history of our country, that bothered me a little bit, because the idea of how do you control that? How does any one committee maintain the knowledge base, both staff-wise as well as member-wise, over that? And that is why I am a little bit reluctant. In fact, I join the chairman in saying, please think twice and sleep on this before you do it, because I think a dividing of the responsibilities with the proper focused committee is the best way to go, rather than the idea you can create a super committee that can in fact take care of all of the responsibilities. In the case of agriculture, I think it would be a colossal mistake.

Ms. SLAUGHTER. Thank you both.

Mr. DIAZ-BALART. Chairman Cox.

Mr. COX. Thank you.

I want to take the opportunity to thank you for not only your prepared testimony but for your opening statements and your very helpful responses to questions. And I want to ask you right off the bat if there is any way that you would—since that is the jurisdiction currently of the select committee, if there is any way that you would rewrite the Homeland Security Act with respect to either

topics that are within the jurisdiction of your committee or topics that are of concern to your committee.

Mr. GOODLATTE. Well, I don't know if I would have the opportunity, but I would want to go back and review the sections as they pertain to agriculture to see how much authority we would have to alter, for example, legislatively the kind of action that was originally proposed by the Department of Homeland Security with regard to agriculture inspection at borders. My understanding was, and still is, that we would be able to undertake that in the jurisdiction of our committee. If I found we could not, then I would want to change that to even further strengthen that committee authority.

Mr. COX. Mr. Stenholm?

Mr. STENHOLM. I would take my own advice on that one and sleep on it before I would give you an answer.

Mr. COX. But I think it would be helpful as a follow-up perhaps to your testimony here today if you could or have your staff think about that question. I say that in response to something that you both said in the last half hour that I strongly agree with, and that is that there is more than turf here. This is about policy. And, you know, to the extent that people are making arguments about how Congress should or shouldn't organize itself based on sound policy, it seems to me that the same would hold true for the Department itself. If it is not wise for the Congress to organize itself in a certain way because of loss of focus or expertise, then perhaps it is no more wise for the Department to be organized that way. We are making an argument in behalf of the Homeland Security Committee within the House on the basis that we have already created this Department and therefore we need something to track it. But if we have found flaws in that when we look at it from a policy standpoint and the Congress, maybe the same problem exists at the Department and we should revisit what we put in there. It is certainly very much what I think our committee responsibility here on the select committee is all about, looking at that statute, revisiting it constantly, and making sure that the decisions that we made in practice turn out to be sound.

Mr. STENHOLM. Mr. Cox, if I might, I would say I think you have asked a very pertinent question that all of us need to think of, both sides, whether the Department itself needs to be reconfigured before we permanentize it any more than it is, and the same way is the jurisdiction and the oversight of the Congress. I think that is a very good question.

Mr. COX. Mr. Chairman.

Mr. DIAZ-BALART. I have one final question I would like to ask Mr. Stenholm based on something that he referred to.

Mr. Stenholm, you suggested in your testimony that the Speaker should utilize his authority to have the House create an ad hoc panel to deal with homeland security, I assume. What should be that panel's jurisdiction, in your opinion? Both legislative and oversight, or just oversight?

Mr. STENHOLM. I think it would be both. And therein, if this oversight committee should have a concern in the area of agriculture, that it would—they would then call on the agriculture appropriate people, staff, members, et cetera, to respond. If it is an

ad hoc committee, it is at the Speaker's direction, and it is for a purpose similar to what Mr. Cox was asking just a moment ago. That is the way I would view that.

Now, I think that could be what could be very helpful and something that we ask you to seriously consider.

Mr. DIAZ-BALART. I want to thank both of you for being here today, for your thoughtful testimony, and we are grateful. Mr. Goodlatte, Mr. Stenholm, thank you very much.

I believe the next witnesses are Mr. Barton and Mr. Dingell. And we are informed that they are on their way. Hopefully, they will be here shortly.

At this point we want to ask of the distinguished ranking member, since she was detained for a few minutes at the Rules Committee at the beginning of our hearing, if she would be so kind as to give her opening statement.

Ms. SLAUGHTER. Thank you, Mr. Chairman. I would be happy to.

I thank the many members who are taking the time out of their full schedules to speak with us today. There are many demands on everyone's time, not the least of which this week is the Federal budget for fiscal year 2005. Your time and your insights are greatly appreciated.

The creation of the Department of Homeland Security has raised many issues. Congress has the responsibility over the new Department itself, and Congress has the heightened responsibility to respond to the threat of terrorism. The question that this subcommittee continues to consider today is what structure is best for the House and best for the nascent Department.

Some structural changes have already been made. The Appropriations Committee created a Homeland Security Appropriations Subcommittee. The Senate has incorporated its homeland security duties into its Government Affairs Committee, instead of creating a separate Homeland Security Committee.

Last year, this subcommittee heard from a series of distinguished scholars, former Members, former Speakers, and others. A consistence seemed to emerge from those hearings that the House should have a Committee on Homeland Security. These recommendation are helpful but not conclusive. Parliamentary and practical, issues such as committee jurisdiction, referral, oversight, legislative authority, and subject matter expertise are important parts of the equation in determining the utility, necessity, and desirability of a Homeland Security Committee.

This is where your experience and expertise is invaluable to the subcommittee's deliberations. The big questions continue to be debated: Should the House have a Homeland Security Committee? Should it be permanent? Select? Or permanent select? Should it have oversight jurisdiction over the Department of Homeland Security? Should it have legislative authority for the Department? Should the committee have jurisdiction over homeland security programs, or jurisdiction over all of the entities that have been moved into the Department?

I look forward to hearing from the distinguished panelists today. The chairmen and ranking members of the committees with jurisdictions over programs and entities within the Department of Homeland Security will be able to provide special insight into the

daily workings of the House and our collective response to terrorism and the creation of the Department of Homeland Security.

Thank you, Mr. Chairman.

Mr. DIAZ-BALART. Thank you, Mrs. Slaughter.

I will at this point, since we do expect them to be here shortly, let us recess the committee for just a few minutes, subject to my calling the committee back into order.

[Recess.]

Mr. DIAZ-BALART. The hearing will reconvene. At this point I would ask the chairman and the ranking member, the Honorable Joe Barton and the Honorable John Dingell, of the Committee on Energy and Commerce to come up to the table, if you will be so kind, and testify.

We are honored by your presence, Mr. Chairman and Mr. Ranking Member. This is the fourth hearing of this Subcommittee on Rules of the Select Committee on Homeland Security, and we are completing, as you know, a very important study required by law, and we will report to the Rules Committee our recommendation with regard to our study of rule 10 as it relates to the issue of homeland security.

Welcome, both of you. Chairman Barton.

**STATEMENT OF THE HONORABLE JOE BARTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS, AND CHAIRMAN, COMMITTEE ON ENERGY AND COMMERCE**

Mr. BARTON. Thank you, Mr. Chairman, and thank you, Chairman Cox. Thank you, Congresswoman McCarthy. I am delighted to testify before this committee that I am actually a member of, also, although not this subcommittee.

Thank you for the opportunity to testify today. I would ask that my formal statement be in the record.

Mr. DIAZ-BALART. Without objection.

Mr. BARTON. And I am going to briefly elaborate on it.

I think you all know that I am a new chairman of the Energy and Commerce Committee. I have been on the job about a month. So I am an overnight success after 20 years in the Congress, and I am looking forward to being a chairman and taking the wisdom of Chairman Dingell to my right, who has served this same committee as chairman. I believe he served it for 14 years.

I believe that the work of this select committee has been good. You have got good staff, you have helped the focus of Congress on some of the most important issues facing America and the American democracy.

With all respect, and I mean that respectfully, my opinion is that this select committee's work is either done or will be done by the end of this Congress.

Because of the work of this subcommittee, I think the House has our house in order. I have attached to my testimony the work that the Energy and Commerce Committee has done both immediately before and immediately after and after 9/11 to protect our homeland security. The Energy and Commerce Committee has conducted over two dozen homeland security-related hearings in the recent years, worked our will on over a half a dozen pieces of major legis-

lation directly related to homeland security. We—and I mean we, being the Energy and Commerce Committee—on a bipartisan basis have demonstrated that the homeland matters in our jurisdiction will get the time, the attention, and the resources that they need. The select committee has brought the broader perspective together. It has done an excellent job. But it is my opinion that to make this a permanent committee would not further progress.

And why do I say that? The problem, in my opinion, is that there is no way over time to discuss the jurisdiction of the Energy and Commerce Committee as on homeland security and the jurisdiction that this select committee, if it were to become a permanent committee, would have on homeland security issues.

Let me give you a few examples. The Energy and Commerce Committee has jurisdiction for security at commercial nuclear power plants. Everybody, regardless of where your committee is, agrees that securing these facilities from a terrorist attack or any kind of attack is a very good idea. The conference report on H.R. 6, the comprehensive energy bill, contains very strong new requirements in that respect. These requirements were developed in our committee on a bipartisan basis. Congressman Markey of Massachusetts was a leading proponent of increased security for nuclear power plants.

How do you distinguish the need to keep our nuclear plants secure from terrorism versus the need to secure them against sabotage or something done by a former disgruntled employee? And the answer is you really can't. The Energy and Commerce Committee's bill that is in the Senate right now legislates for both these contingencies.

Let me give you another example. The Energy and Commerce Committee has jurisdiction over the public health, and we have the same issue there. When we look at how to deal with outbreaks of dangerous and contagious diseases, we certainly take terrorists using the ability through the airways, through the waterways, to spread some contagion that would create a contagious disease very seriously.

But are those potential terrorist attacks any more different or any more dangerous that the spread of an infectious disease that is spread by normal means, such as the SARS virus last year? When it comes right down to it, Mr. Chairman, there is really no way to distinguish between the consequences. And if you have two committees doing the same thing, it may muddy the water, so to speak.

I want to address one last issue. One of the primary reasons that has been raised as to why the Department of Homeland Security should have its own committee before the Congress is that the Department of Homeland Security shouldn't have to answer to numerous congressional committees and subcommittees, that its work will be compromised by having too many bosses in the Congress. Well, the answer to that concern is not to the formation of another committee. The answer is just the opposite: To get somebody to coordinate jurisdiction between the existing committees and consolidate, not to expand.

A brand new committee, no matter how well formed and with the right people, with new members and new staff is not going to do

a better job than the existing committees if we do our job. And I will submit for the record the hearings and the legislation that we have done in the Energy and Commerce Committee over the last several years.

So with all due respect, I would hope that at the end of this Congress, the Speaker and the minority leader wish to make this a select committee for another Congress, that would be one thing. But to make this a permanent committee would be something that I would have to oppose.

And I would now yield to back to the Chair.

PREPARED STATEMENT OF THE HONORABLE JOE BARTON

Mr. Chairman, Ranking Member Slaughter, and Members of the Subcommittee, thank you for this opportunity to testify before you on the future of the Select Committee.

I'm new to this game, as you know. I've been a Committee Chairman, oh, about a month now. It's good. I recommend it to anyone who gets re-elected ten times.

I very strongly believe that the work of the Select Committee has been good. You've had some good staff. You've helped to focus the Congress on some of the most critical issues facing America and American Democracy.

But, with all due respect, the Select Committee's work here is done. The fact of the matter is that the House has its house in order. I have attached to my testimony the incredible work that my Committee has done—pre 9/11 and after—to protect the homeland. We have conducted over two dozen Homeland-related hearings in recent years, and worked our will on half a dozen major pieces of Homeland-related legislation. We have demonstrated that the Homeland matters in our jurisdiction will get the time, attention, and resources they need. And, frankly, the Select Committee has become an impediment to further progress.

The biggest part of the problem is that there really is no way to distinguish the jurisdiction that my Committee has - and others too, I'm sure - between homeland security-related issues and issues that we would otherwise act on. Let me give you a couple of examples. Take security at commercial nuclear plants. We all agree that securing these facilities from attack is a good idea - in fact, the conference report on H.R. 6, the comprehensive energy bill, contains very strong new requirements in that respect. But how do you distinguish the need to keep plants secure from terrorism versus the need to secure them against sabotage by a disgruntled former employee? Well, you really can't. We legislate for both those contingencies.

My Committee's jurisdiction over public health is very much the same way. When we look at how to deal with outbreaks of dangerous and contagious diseases, we certainly take terrorist attacks seriously. But are those potential attacks any more different than the spread of the SARS virus last year? When it comes down to it, not really—both require the Congress's full attention.

Mr. Chairman, I'd like to address one last issue. Many have said that the Department of Homeland Security shouldn't have to answer to dozens and dozens of Congressional Committees - that its work will be compromised by having too many bosses in Congress. Well, the answer to that concern is not the formation of a whole new committee. The answer, very simply, is to ensure that someone coordinates the needs of Congress with the Department. A new committee with 50 Members won't do any better job than a liaison staffer in the Speaker's office - and it would be a whole lot less expensive.

We don't need a new Committee. We really need fewer Committees. What we need is to consolidate the wisdom, and competition, and experience, and excellence of the Members in the existing standing Committees that have the dedication to get the homeland security job done.

Mr. Chairman, I hope that my views are clear. And I hope that view prevails in your deliberations.

I am, of course, happy to answer any questions the Subcommittee may have.

**March 24, 2004**

**HOUSE COMMITTEE ON ENERGY AND COMMERCE HOMELAND SECURITY ACCOMPLISHMENTS**

LEGISLATION

**107TH Congress**

• USA PATRIOT Act (H.R. 3162/Pub. Law No. 107–56). Included an amendment to the Communications Act of 1934 clarifying the scope of permissible governmental access to the communications of certain cable subscribers.

• Public Health Security and Bioterrorism Preparedness and Response Act (H.R. 3448/Pub. Law No. 107–188). Ensures that a sufficient number of drugs and vaccines are available to the public in the event of a terrorist attack. Also provides framework for greater protection of food and drinking water supplies. Includes provisions expediting the approval of life-saving drugs for all Americans.

• Homeland Security Act (H.R. 5005/Pub. Law No. 107–188). Committee drafted provisions relating to Information Analysis and Infrastructure Protection (cybersecurity), Research Development and Technology Systems, and Emergency Preparedness and Response. Committee continues to exercise jurisdiction over critical homeland security aspects of the Department of Energy, the Department of Health and Human Services, and associated departments and agencies.

• Price-Anderson Act Reauthorization Act (H.R. 2983/Became part of H.R. 4, the Securing America's Future Energy Act, which died in conference). Included rigorous new anti-terrorism requirements on commercial nuclear energy plants and nuclear material transporters.

**108th Congress**

• **Project BioShield Act** (H.R. 2122/Stalled in Senate). Provides HHS with broad new powers to prepare for and react to bioterrorist threats.

• E–911 Implementation Act **(H.R. 2898/Stalled in Senate). Grant program to ensure that wireless phones have the technology to provide location information to emergency call centers.**

• H.R. 6, the Energy Policy Act of 2003. **Included rigorous new anti-terrorism requirements on commercial nuclear energy plants and nuclear material transporters. Pending in the Senate.**

HEARINGS

**106th Congress**

• Internet Posting of Chemical "Worst Case" Scenarios: A Roadmap for Terrorists. (Joint hearing between the Subcommittee on Health and Environment and the Subcommittee on Oversight and Investigations) February 10, 1999

• The Threat of Bioterrorism in America: Assessing the Adequacy of the Federal Law Relating to Dangerous Biological Agents. (Subcommittee on Oversight and Investigations) May 20, 1999

• The Chemical Safety Information and Site Security Act of 1999. H.R. 1790. (Subcommittee on Health and Environment) May 19, 1999 and May 26, 1999

• The Security and Freedom through Encryption (SAFE) Act. H.R. 850. (Subcommittee on Telecommunications, Trade, and Consumer Protection) May 25, 1999

• The Rudman Report: Science at its Best, Security at its Worst. (Full Committee) June 22, 1999

• Results of Security Inspections at the Department of Energy's Lawrence Livermore laboratory. (Subcommittee on Oversight and Investigations) July 20, 1999

• The State of Security at the Department of energy's Nuclear Weapon Laboratories. (Subcommittee on Oversight and Investigations) October 26, 1999

• Safety and Security Oversight of the New Nuclear Security Administration (Subcommittee on Oversight and Investigations) March 14, 2000

• Legislation to Improve Safety and Security in the Department of Energy. H.R. 3383, H.R. 3906, and H.R. 3907. (Subcommittee on Energy and Power) March 22, 2000

• Computer Insecurities at DOE Headquarters: DOE's Failure to Get Its Own Cyber house in Order. (Subcommittee on Oversight and Investigations) June 13, 2000

• Weaknesses in Classified Information Security Controls at DOE's Nuclear Weapon Laboratories. (Subcommittee on Oversight and Investigations) July 11, 2000

**107th Congress**

• Protecting America's Critical Infrastructure: How Secure Are Government Computer Systems? (Subcommittee on Oversight and Investigations) April 5, 2001

• Ensuring Compatibility with Enhanced Calling Systems: A Progress Report. (Subcommittee on Telecommunications and the Internet) June 14, 2001

• How Secure is Sensitive Commerce Dept. Data and Operations? A Review of the Dept's Computer Security Policies and Practices. (Subcommittee on Oversight and Investigations) August 3, 2001

• Reauthorizing of the Price-Anderson Act. (Subcommittee on Energy and Air Quality) September 6, 2001

• A Review of Federal Bioterrorism Preparedness Programs From a Public Health Perspective. (Subcommittee on Oversight and Investigations) October 10, 2001
• A Review of Federal Bioterrorism Preparedness Programs: Building an Early Warning Public Health Surveillance System. (Subcommittee on Oversight and Investigations) November 1, 2001
• Bioterrorism and Proposals to Combat Bioterrorism. (Full Committee) November 15, 2001
• Cyber Security: Private-Sector Efforts Addressing Cyber Threats. (Subcommittee on Commerce, Trade, and Consumer Protection) November 15, 2001
• Electronic Communication Networks in the Wake of September 11. (Subcommittee on Commerce, Trade, and Consumer Protection) December 19, 2001
• Creating the Department of Homeland Security. (Subcommittee on Oversight and Investigations) June 25, 2002 and July 9, 2002
• Securing America: The Federal Government's Response to Nuclear Terrorism at Our Nation's Ports and Borders. (Subcommittee on Oversight and Investigations) October 17, 2002

**108th Congress**

• A Review of NRC's Proposed Security Requirements for Nuclear Power Plants (Subcommittee on Oversight and Investigations) March 18, 2003
• Furthering Public Health Security: Project BioShield (Subcommittee on Health joint hearing with the Subcommittee on Emergency Preparedness and Response of the Select Committee on Homeland Security) March 27, 2003
• Nuclear Terrorism Prevention: A Review of the Federal Government's Progress toward Installing Radiation Detection Monitors at U.S. Ports and Borders (Subcommittee on Oversight and Investigations) September 30, 2003
• Port Security: A Review of the Bureau of Customs and Border Protection's Targeting and Inspection Program for Sea Cargo (Subcommittee on Oversight and Investigations Field Hearing in Camden, New Jersey) December 16, 2003
• Nuclear Security: A Review of the Security at DOE Nuclear Facilities and the Implementation of the Revised Design Basis Threat (Subcommittee on Oversight and Investigations) March 4, 2004

Mr. DIAZ-BALART. Well, thank you, Mr. Chairman. You have been very frank. We appreciate your frankness.

Mr. Dingell.

## STATEMENT OF THE HONORABLE JOHN D. DINGELL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN, AND RANKING MEMBER COMMITTEE ON ENERGY AND COMMERCE

Mr. DINGELL. Mr. Chairman, thank you. It is a privilege to appear before you today. I would like to thank you and my colleagues and members of the committee for this opportunity.

I would like to begin by asking unanimous consent to revise and extend my remarks in the record.

Mr. DIAZ-BALART. Without objection.

Mr. DINGELL. Second of all, I would like to endorse everything that our chairman has said to you. He has talked good sense. And I would point out this committee has done useful work during this session of Congress, and I commend you for it. It was necessary that we have an overview of the entirety of the business of the national security. I think you have accomplished that with the cooperation and the assistance of the standing committees which have their responsibilities.

I would note that the standing committees have taken their responsibilities as seriously as have you ladies and gentlemen here, and we have moved cooperatively with you and with the others who are concerned with these matters and with each other to see to it that we have accomplished the legislative purposes that were needed. I do not believe that the Congress is well served by con-

stantly multiplying the number of standing committees. It tends to increase the budget, it tends to increase the confusion, it tends to create additional workload for the Members, and it doesn't seem to result in any significant benefits in terms of either higher quality or greater and more important legislative production.

I would note that our committee has dealt with all of the concerns which we have in this question of national security. I would point out that we have done the oversight which is needed, and that this is not a new thing that began to happen when Mr. Bliley or Mr. Tauzin or my good friend our current chairman took office as chair. I would note that these things were going on before, that we had very extensive hearings on safety at nuclear power plants, safety at other power plants, questions related to public health, matters that were associated with possible spread of disease or epidemics or problems of that sort, and addressing also the question of the safety at the nuclear facilities. And we have forced a number of clean-ups, including at the national laboratories and at the colleges and universities which address these questions, and have a long history going back to the days of my predecessors, Mr. Chairman, of this committee.

Now, I would be happy to submit for the record additional information over and above that which our able chairman has submitted to you.

We have addressed the problem of SARS, and anthrax and chicken flu. We have also talked about how these have come to be and how they should be addressed and whether they are dealt with by foreign terrorists, common criminals, or just normal natural events. We have a long history of having worked with the agencies under our jurisdiction, whether they are the Department of Homeland Security with the work that they are doing, or the Public Health Service or the Centers For Disease Control or whomever or whatever they might happen to be, as well as the former Atomic Energy Commission and now the Nuclear Regulatory Commission.

And our work has been not only of high quality, but it has been done on the basis of much experience, long association with those agencies, and with a generally friendly relationship.

I would say that, as our chairman indicated to you, that the idea of having a single committee to which the agencies would report on homeland security doesn't make very good sense to me. I went through the energy crisis, in the 1970s, and I have gone through a number of other problems of similar character, and I never found that there was anything other than benefit to be achieved by having a large number of committees viewing these questions from the standpoint of their own experience and expertise. And I would say that this happened very much during the time of the 1970s when the Energy Administrator or the chairmen of the regulatory bodies or later the head of the Department of Energy would come up to report to different committees about how they were conducting their business. When there was need to get together on a large single energy bill, it was always possible to work out the agreements amongst the different committees that had responsibilities, and it was always possible to work with the leadership of the Congress, the Speaker, the minority leader, the majority leaders, and the others so as to achieve a unified legislative consequence to this. And

I see no reason why we should be apprehensive that that will not work again. And I would say this having written a number of large energy bills, clean air bills, and things of that kind that involve the jurisdiction of many committees having to work together under somewhat difficult, time-consuming but nevertheless successful problems they confronted.

In any event, I think that the Committee on Homeland Security has served the Congress well. I think that they can, quite frankly, terminate their affairs with the thanks and the appreciation of the Congress, and the understanding that the standing committees that now having jurisdiction over these matters will continue to do their work well as they always have and that there is no great reason for setting up a single committee which would, quite frankly, achieve I think perhaps an excessively cozy relationship with the Department of Homeland Security, which very frankly seems to need some rather hard and questioning supervision. And I will be happy to talk about them and the dissatisfaction that people at the border region happen to feel, and I think my good friend the chairman is nodding affirmatively that he has had similar problems with them not doing the job they should, not having the budget that they should, and needing, quite frankly, a long period of patient, tolerant supervision from more than just one committee.

And so I would suggest that you have my thanks for the good work which you have done, you have my good wishes for the future, you have my hope that you will succeed in your other undertakings within this body. But I am going to observe that we have capacity within the standing committees to address the problems that exist, and I would hope that we would thank you, I bid you farewell, and look forward to your continuing success, but understand that your presence has been helpful but is no longer required.

PREPATED STATEMENT OF THE HONORABLE JOHN D. DINGELL

Thank you, Mr. Chairman and members of the subcommittee, for this opportunity to testify before you on the subject of possible changes to the House Rules relating to jurisdiction over homeland security.

I made no secret of my sense that a new Department of Homeland Security would create as many problems as it was intended to solve. Without going into all of my reasoning, I was particularly concerned that public health entities, such as the Centers for Disease Control and Prevention, could be damaged by moving all or part of their activities to the Department.

Let's look at our recent health outbreaks—SARS, anthrax, chicken flu—you name it. Whether produced by foreign terrorists, common criminals, or more often, natural events, all can have devastating effects. Yet the role of public health officials is the same throughout. And they must be prepared to respond without first determining whether the initial cause was terrorist activity or natural occurrences.

As a result, working on a bipartisan basis, the Committee on Energy and Commerce attempted to limit any harm that could be caused in the legislation establishing the Department of Homeland Security, and I think we did so. We must now be sure that we do no harm to our Committee's jurisdiction over "health and health facilities" and "public health and quarantine," which enables us to address threats to the public health regardless of the source.

I would add that our Committee has always taken its responsibilities in this field very seriously. For example, we held hearings on the threat of bioterrorism in America in May 1999. This was followed by three more hearings in 2001, and we took the lead role in crafting the Public Health Security and Bioterrorism Preparedness and Response Act. We took the lead in this Congress on the Project Bioshield Act.

The potential for overlap between our Committee and a Homeland Security Committee abounds in a variety of other areas, such as nuclear facilities, oil pipelines,

chemical security, electricity transmission, and telecommunications security. In each of these areas, our Committee and its staff have developed expertise that predate the events of 9/11.

This should come as no surprise. For example, the regulation of nuclear powerplants must take into account security issues, whether the threat is a disgruntled employee or a terrorist attack. And the regulation of electric transmission lines must take into account the effects of overhanging trees as well as a terrorist attack.

Our Committee has been thorough and relentless in holding hearings, seeking GAO reports, and enacting legislation to make all of these facilities more secure. The actions we take in ensuring security at critical facilities must be broad-based, taking into account a variety of scenarios from acts of God, human error, or human malfeasance. We cannot and should not try to split these important security issues based upon their root cause.

I would also like to briefly anticipate two arguments in support of revising Committee jurisdictions to recognize the new Department of Homeland Security. First I am sure that the Administration would prefer that it answer to just one Committee. My experience over many years suggests that such a cozy relationship rarely advances accountability. For example, many have cited intelligence lapses for September 11, but I note that the intelligence agencies report just to the Intelligence Committee and the FBI reports to the Judiciary Committee. It is hard to see how that scheme improved accountability.

*Second,* some might suggest that a Homeland Security Committee would somehow place a greater emphasis on homeland security issues than other standing committees. Again, I would refer you to the record of this Committee and our lead role in investigating matters of bioterrorism, nuclear weapons security, and other matters to suggest that is not the case. On the other hand, while I commend all the efforts your Committee has made in this area, I strongly believe that the accumulated expertise of our Members and staff in these areas would be wasted if jurisdiction were changed to place these issues in a new committee.

In summary, we are providing you with just a recent glimpse of our activities on homeland security issues. They show that we have looked at these matters for many years, and when we recognized the need for increased activity, we have been the first to act. I strongly urge you not to recommend either limiting our Rule X jurisdiction in any fashion, or establishing any new jurisdiction that will duplicate or overlap our actions.

Mr. DIAZ-BALART. Thank you Mr. Dingell. We also thank you for your frankness

Mr. BARTON. Mr. Chairman, we have Mr. Waxman, Mr. Hall and Mr. Upton, I think. If you would like for them, I don't know what the protocol is but they are willing to testify if you wish them to or be available for questions.

Mr. DIAZ-BALART. They are certainly welcome, certainly welcome. The objective here is to listen and to get input, so you are not foreclosed from bringing up your ideas. So if you would like to speak now, I mean, you are more than welcome.

Mr. UPTON. I am just sitting behind them for support.

Mr. DIAZ-BALART. Well, your support is noted and is most important.

Mr. Chairman, Mr. Barton, you make a valid point about how critical infrastructure protection efforts cannot be focused solely on the terrorist threat. But your analysis does not seem to account for the interdependencies among critical infrastructure and key assets and the integrated threat and vulnerability assessment that the Department of Homeland Security is charged with performing. These cut across many committee jurisdictions, financial services, agriculture, energy and commerce, transportation and infrastructure, resources, et cetera. Do you not see that Congress seems to need some committee focusing on such interdependencies and the overall strategy? Who will do it otherwise?

Mr. BARTON. Well, Mr.Chairman, I think that is an excellent question. My answer is I think to the extent that the Energy and

Commerce Committee has jurisdiction in these interagencies, in these interdependencies, we are doing that. I will not deny that a special committee that focuses just on one department can also do it. I mean, I don't think it is a question whether a select committee if it were to become a permanent committee couldn't do it. But I do think and I will put into the record all of the hearings and the laws and the testimony that we have done on the Energy and Commerce Committee in the last three Congresses, and it is fairly extensive. As Mr. Dingell pointed out in his prepared remarks, over time, if you have one committee that oversees one agency, it is human nature to develop, as he put it, a cozy relationship. By having several committees that each independently oversee that, the Homeland Security Department, you are much more likely to get all these interdependencies covered. I mean, just by—you are getting multiple views and multiple hearings and quite honestly multiple personalities.

Mr. DIAZ-BALART. Do you have a comment, Mr. Ranking Member, Mr. Dingell, on that question?

Mr. DINGELL. Mr. Chairman, I agree with our chairman here. In a nutshell, if there is a large problem which needs to be addressed, the committees now of jurisdiction have the capacity to do that, to address that problem, especially if they have the support and the assistance of the Speaker and the leadership. We have done this over the years, going back into the 1970s and the 1980s where the leadership would work with the different committee chairmen and the different ranking members to see to it that we all work together, and the end result was that sometimes as many as 27 different committees would be working together on legislation, working together very well. The end result was that we passed legislation, which had the unique advantage of having the special expertise and experience of each and every one of these committees working together with the Speaker occasionally facilitating and assisting them in seeing to it that a unifiable and satisfactory conclusion was achieved.

Mr. DIAZ-BALART. Thank you. Miss McCarthy.

Ms. MCCARTHY. Thank you, Mr. Chairman. Thanks to my chairman and ranking member for being here to share their thoughts today, and I have read both of your testimonies and I can't take issue with anything that you share because at least 70 Percent of all of the matters in the House come through the very committee you are chairman and ranking member of, and I am honored to serve there, so it has held me in good stead in this new role. But I want to toss out a—expand upon your idea, Mr. Chairman, Chairman Barton, and ask you, Mr. Dingell, to weigh in on it.

In Mr. Barton's written testimony he spoke about the need not so much for this committee as a liaison that would work with all the committees, as you mentioned, that are—you know have some jurisdiction already on this matter. The committee that has the most jurisdiction, as you point out, Mr.Dingell, is the Commerce Committee, both from our work on weapons depositories and health. I think about all the joint jurisdiction we already have with Judiciary, with Ways and Means, but perhaps an expanded role on the Commerce Committee with the liaison, Mr. Barton, that you mentioned someone, from the Speaker's office that interfaces with

the other committees could see to it that there be joint referrals to the Commerce Committee and expand the role of the Commerce Committee to tackle additional matters beyond what we already do. I just would love your thoughts on that kind of concept. I do think there—well, while there may not need to be a Homeland Security Committee, there needs to be one place that coordinates it all from the other committees that have jurisdiction, whether that be the Speaker's office, in conversation with the minority leader's office, so there is input, or whether a committee as vast already as Commerce whose jurisdiction covers almost all of these matters anyway. I would just love your thoughts on that as a possible solution to the matter.

Mr. BARTON. Well, Congresswoman, I think that is a very valid point. I am glad that you read the testimony. It is to your tribute. You always do that.

Ms. MCCARTHY. I try.

Mr. BARTON. I would like to point out I think the obvious. The chairman of the committee, Mr. Cox, is also a member of this committee, the Energy and Commerce Committee. He was my vice chairman when I chaired the Oversight and Investigation Subcommittee, and the young man that is briefing him was one of the Oversight and Investigation Subcommittee staffers. So they were trained well on Energy and Commerce to be the chairman and the staffer on this committee, and if the Speaker wanted to, in addition to appointing a senior staff member of his personal staff and the Speaker's office to serve as the liaison with all the committees and wanted to appoint Mr. Cox and Mr.DiLenge to assist on that, Mr. Cox as the congressman and Mr. DiLenge as the staff assisting the Speaker's staff, I think that would be a great compromise, or Mr. Diaz-Balart, who is a distinguished member of the Rules Committee. I mean I am not going to sit here and tell you folks that you don't need to have some coordination. But to have a full blown committee, with all the staff and all of the jurisdictional issues that would arise from that, to my mind is self defeating.

Mr. DINGELL. I would like to echo what the chairman said, but I would like to go further. This issue of the committee having jurisdictional borders which cause difficulty is not a new thing around here. Our committee has jurisdictional borders with Ways and Means; Public Works has similar situation. We have it on Superfund and Medicare and Medicaid. They have it on highways and other things of that sort. We have a jurisdictional border with Agriculture, where we have to address together the questions of food safety. And these things are done regularly and although they are sometimes a little bit of difficult, they always are worked out and I think satisfactorily over time. And if you look you will find we have had a long and interesting relationship with our colleagues at the Science Committee, where questions there have been dealt with, I think, without too much difficulty simply because the chairmen understand how these things are done by working together. And if questions arise that require greater effort and a major piece of legislation, which I don't think is needed at this time, then the leadership of the House can pull this all together. The chairmen can get together and the committees can get together and the busi-

ness that needs to be addressed can be done, and I think expeditiously as well.

And I would point out that all of these committees have two things. One is a familiarity with the issues. And I would point out that in a major terrorist attempt involving health matters, such as some kind of bacterial agent or something of that kind, are not matters that could not be addressed in just about the same way whether it involves terrorism or just as a naturally unfortunate event. Similar situations with regards to a major problem such as a huge spill of hazardous substance or an emission, a massive emission of some kind of air pollutant or water pollutant or something of that type. And with all respect to this committee, you have done great work. But sitting committees have the capacity to address these things and have never been found wanting in their addressing of the problems.

Mr. BARTON. I might just—if I may, Mr. Chairman.

Mr. DIAZ-BALART. Yes, you may.

Mr. BARTON. And based on what Chairman Dingell said, just give you some examples. Health and Human services, whose Cabinet Secretary has already testified before my committee on budget priorities and policy issues, also is subject to the Budget Committee, the Ways and Means Committee, obviously the Appropriations Committee, the Government Reform Committee. So they are going to multiple committees. The Environmental Protection Agency, which is one of the major agencies that we have jurisdiction over, they also have to report to the Transportation Committee, again the Appropriations Committee, Ag Committee, the Government Reform Committee, and the Science Committee. Department of energy, in addition to being responsible to the Energy and Commerce Committee has issues for, Armed Services, Government Reform, Science Approps, Resources. So most of the Cabinet agencies do report to multiple congressional committees, and I don't see why Homeland Security should be any different, especially if we are doing our job. Now if we are not doing our job, that is a whole different ball game.

Mr. DINGELL. They can fire you then.

Mr. BARTON. Yeah. But I don't see, I don't sense on these issues, nobody has said the Energy and Commerce Committee has not done its job and again we are blessed because the chairman of this committee is also a member of our committee, as is the distinguished lady asking the questions.

Mr. DIAZ-BALART. Ms.Dunn.

Ms. DUNN. Thank you very much, Mr. Chairman. Thank you gentlemen for coming to testify before us today. I think it is very useful to have you as a member of the committee and to get your honest appraisal of the direction in which we should be going, and that is why we wanted to have this hearing today. I have a concern with the number of committees that the Homeland Security Department has to report too. I think it might be useful to have a resolution outlining exactly whom they should report to. Maybe we could cut that 88 committees and subcommittees down to a point where they would have more time to do the job that they were put—that administration has put to them. That could be useful and it could be done in a separate motion.

My support for making the responsibilities of the Department of Homeland Security Select Committee permanent has a lot to do with focus on the problem. Things are different since 9/11. And in every area of the administration there are pockets of responsibilities that really need focus. "Focus" is the word that always makes me realize how important it is to put together a committee that has a laser like approach to the responsibilities that this select committee has taken, and that is to oversee the department and to prevent terrorism, to reduce the vulnerability of the United States and then to respond to acts of terrorism if they were to occur. That is what I fear we lose when we spread these responsibilities out over 20 or so committees and additional subcommittees. I think it is very easy to say, and I remember being part of a wonderful bicameral group called the Organization of Congress when I first came here as a freshman. This committee looked at all the responsibilities of the different committees, and in fact in 1995 we did reduce the number of committees by two or three, and that was appropriate. But on the other side of that, if we are not able as a Congress to respond to the new issues as they come into being, the problems, as we did when we formed the Energy Committee a few decades ago, then I think that we are getting behind the "8" ball, behind the private sector, behind the sort of movement that we want in this country to preserve the safety of our citizens, which I believe is the first and primary responsibility of all of us who represent constituents. I think it is easy to say keep the jurisdiction as we have it now, and so we have to push ourselves to see if there is a way that we could bring focus to this new and disastrous responsibility of the Congress without ransacking all the other committees that have done a very fine job, certainly exemplary job on most of these responsibilities up to 9/11.

My problem is with the additional responsibilities. I don't know how much time percentage-wise can you spend on the prevention and the response of terrorism and the assessment of the vulnerabilities. Maybe you can do that by setting up an antiterrorism oversight subcommittee on each committee. Maybe that is possible.

I just would really like to go into your thinking, both of you, and I would like to ask you if you see any responsibility within your jurisdiction that you think could be set aside. I think that is an important question for you to look at and answer.

I am on Ways and Means. There may be some things we could do with Customs to bifurcate its responsibilities, maybe not. The Commissioner of the Customs doesn't want to separate the revenue raising, trade-related responsibilities of Customs away from the responsibilities they have. But on this committee, we have subcommittees that are looking every single day at the safety of ports and borders and cyber security and infrastructure, and that is our specific focus, and I think this committee does it very well with very responsible people in charge of the subcommittees, and so I would like to ask you, is there a responsibility that you currently have that you think could be set aside in a committee that would focus in a laser like way on the security of the people we represent? Would you see a subcommittee being the answer to that problem? Or do you think things are fine the way they are now and the per-

centage of your time you have that you could allocate to this new responsibility is adequate?

Mr. BARTON. Let me see if I can address that, Congresswoman. I would like to point out that the task force that you served on when the Republicans became the majority in 1994 recommended, and it was enacted in the rules, the elimination of the District of Columbia Committee. We do that now at the—one of the subcommittees on appropriations. We eliminated the Merchant Marine and Fisheries Committee, put those jurisdictional issues I believe in the Resources Committee. Maybe some of them are in Transportation. There was some debate at the time about eliminating the Small Business Committee. We thought those issues were broad enough that we kept that committee. We also discussed briefly consolidation of the Veterans' Committee in the Armed Services Committee, and so we decided to keep Veterans' as a separate committee.

So when the Republicans became the majority and initially in 1994, and became into power in 1995, we went both ways. We kept two committees to focus on specifics, Veterans' and Small Business, but in the District of Columbia and Merchant Marine and Fisheries we consolidated. So you can argue that issue on focus either way.

In terms of jurisdictional issues, that we wanted to create a permanent Homeland Security, are there some jurisdictional—is there some jurisdiction in the Energy and Commerce Committee that should automatically go to Homeland Security? My answer to that would be not unless it is proven that it would—that we, i.e. the Energy and Commerce Committee, have failed. Now if there is some issue that we have failed to act on, failed to give the focus that you alluded to, I have only been chairman for a month but you tell me what it is and, by golly, there will be some focus. In terms of general oversight, I still have to get things approved and cleared by the membership and the leadership, but I have outlined to my subcommittee chairmen that in the next Congress if the Republicans are still in the majority, I am thinking of asking every subcommittee chairman to be a member of the Oversight Subcommittee and I am going to do oversight not only at the Oversight Subcommittee, but also have every subcommittee chairman do oversight on their authorization subcommittees.

So if your question is if we do not create a permanent Homeland Security Committee, should the Energy and Commerce Committee create a Homeland Security Subcommittee? I am very willing to do that, if we change the rules to allow more subcommittees than are currently allowed in the current House rules. It is my understanding that the current House rules only allow for five subcommittees at each standing committee. I would not want to give up one of the existing subcommittees and I certainly am not going to give up the Oversight Subcommittee, but if we would expand the House rules so that you could have six subcommittees, I would be very willing to create a Homeland Security Subcommittee on Energy and Commerce, if that is your question.

Mr. DINGELL. I think you have to ask yourself, and I say this with great respect, what would have been done differently in Congress than was done if there had been a different committee structure. First of all, when the committees, the standing committees

were asked to work on legislation, they did so with all vigor and it was done. It came then to the Committee on Homeland Security, and I found very small changes made, if any, in the work that was done by the Commerce Committee. And I think you would find a similar situation obtained with regard to every other committee which submitted its process to the oversight of the Homeland Security Committee. The matter then went to the Rules Committee and the work product of all the committees was put together and accepted.

Now, my question is, how do you sort out—let's say that you have got a question that relates to public health, SARS or anthrax or chicken flu or whatever it is or some kind of biological agent that is released. The Commerce Committee deals with these questions every day. We know all about it, and we know what has to be done and we know the agencies that do it. We know what existing law is and we have that expertise. And the question is, how much different would the approach that would be taken, for example, by the Homeland Security Committee be from that which the Commerce Committee would suggest because we deal with these things in a holistic way. We don't just deal with homeland security, but we deal with all the impacts to this. We would have the advice of the Federal agency that has responsibility over this, the Department of Homeland Security. And I don't see us departing significantly from their suggestions, but I do see us having a keen awareness of how an attempt to address a particular problem that might relate to homeland security or terrorist activity would impact on the broad overall policies we have with regard to health or dangerous biological agents that might be naturally introduced into the society or might be introduced by terrorists. I see a similar situation with regard to poisons or hazardous substances or toxic substances. I see things that would relate to other matters of jurisdiction of the Commerce Committee, and I don't see any of the sitting committees or standing committees that address these matters that would behave any differently working with the Department of Homeland Security and I don't see any difference between what they did or would do because of the presence of the Homeland Security Committee.

Mr. DIAZ-BALART. Chairman Cox.

Mr. COX. I want to thank you formally. I have already had a chance to thank you informally for appearing and for providing both formal testimony and your opening statements and illuminating answers to questions. And as you know, I am a very proud member of the Energy and Commerce Committee myself, as the chairman mentioned, that he and I used to be the chairman and vice chairman respectively of the Oversight and Investigation Subcommittee, and because of that long service on the Energy and Commerce Committee I am very familiar with the broad jurisdiction of the committee and also the intersection between the focus of the Energy and Commerce Committee and the mission of Homeland Security. At Energy and Commerce we are responsible for energy and air quality, one of the subcommittees on which I serve and which you used to chair, Mr. Chairman, EPA, which is, you know, virtually a Cabinet department, the Department of Energy, FERC, NRC. We have a separate Subcommittee on the Environ-

ment where we focus on things like Superfund and drinking water and RCRA, and we have a Subcommittee on Telecommunications and the Internet, which is very active and focused on the activities of the FCC and NTIA. We have a Subcommittee on Commerce, Trade, and Consumer Protection, which, among other things, includes jurisdiction over the Department of Commerce. We have a Subcommittee on Health, which is responsible for Medicare and Medicaid and HHS and FDA and CDC and NIH, and we have a Subcommittee on Oversight and Investigations, which as I mentioned I was vice chairman of under your chairmanship, which doubles down from an oversight perspective in all those areas.

Having spent a year and a half, actually longer than that, because of the time we spent in Energy and Commerce with our referral on the Homeland Security Act, going through that act and understanding it fully and now watching the Department grow according to that blueprint, I am pleased to say that the Energy and Commerce Committee has almost the least amount of conflict of any major committee from a jurisdictional standpoint, and to the extent we do have overlap we have worked very closely together, most notably on the BioShield legislation. But even there, the statute makes it very clear that the Department of Homeland Security acquired no jurisdiction over the human health aspects countermeasure, and so the reason for the collaboration was essentially because the legislation itself was collaborative between the Department of Homeland Security and HHS. That is a dual function. There was no government agency within the jurisdiction of Energy and Commerce transferred to the Department of Homeland Security. There were some very small programs and a small number of them, but no government agency, you know, unlike other committees. The whole Coast Guard got transferred, the whole INS got transferred, and so on. That didn't happen with Energy and Commerce.

And so we have, I think, two premises from which to work. First, there is already a very broad and important jurisdiction at Energy and Commerce which we want to maintain continued focus on. And second, there is a discrete and severable function of this new Department that at least heretofore has been largely without the jurisdiction of the Committee on Energy and Commerce. I appreciate the notional offer that was made to acquire the jurisdiction and as a proud member of the Energy and Commerce Committee, that is my committee, I recognize that and I am here to say that I am proud of—

Mr. BARTON. I can make it more than notional if there is any interest. We can have a proposal to this committee or the Speaker's office within 48 hours if there is interest in that.

Mr. COX. I recognize that Texas deal maker there. We are happy to do this acquisition. But I think what is really important, and I just mention in a side bar before we begin, is that the Congress, the House and the Senate, keep a focus on the Department of Homeland Security's mission, its purpose for being, because in the same way that we have jurisdictional concerns because of all the overlap here in the House, there is a potential at least for the Department of Homeland Security to grow into areas where it doesn't belong.

The Department of Homeland Security has a very important mission, and I think it is vitally important that it keep focused on that mission. Number one in its mission statement is preventing terrorism. Number two is protecting us against potential terrorist acts so that if they occur we minimize their damage. And number three is, and last, it is the only missions they have, those three, is to respond, to be prepared to respond in the event terrorism does occur, which inevitably some time in our future history it will, and then help the country recover thereafter.

If the Department of Homeland Security, however, morphs into the regulator of every aspect of American life in every corner of American enterprise, then it is going to encroach not only into missions which were not assigned it by the Homeland Security Act, but also into the jurisdiction of the Energy and Commerce Committee, where it doesn't belong. If it grows to federalize every State and local and private sector function because homeland security touches everything, then inevitably it will also encroach directly into the traditional jurisdiction of the Energy and Commerce Committee, and if it grows in that fashion it probably will be the ruin of the Federal budget and also encroach in the jurisdiction of the Budget Committee in a big way, where we hope that it does not.

So I would just ask you, if not at this moment as a follow-up, ask the professional staff of the Energy and Commerce Committee to focus on this question. Given that the Congress and at least for this Congress, this select committee has jurisdiction over the Homeland Security Act itself, what recommendations would you make, given the experience that we now have with a real department, based on the blueprint we wrote not that long ago, to change the Homeland Security Act with respect to things that went in that perhaps should come out or, if you are so inclined, things that didn't go in that ought to have in the first place, perhaps instead of some things that did? And if you want to respond off the cuff to that, I would accept anything you have to offer by way of wisdom right now. But you know, recognizing that that is the sort of thing that would also require some study and some professional staff work, I would welcome it as a follow-up.

Mr. BARTON. I think you make a valid point, Chairman Cox. I would reserve the right to staff it appropriately and respond officially instead of commenting off the cuff. But the ability of any department to grow is limited only by its ability to get resources from the Congress in which to do that growth. And I think on an issue like homeland security, since it covers everything in a technical sense, there is a tremendous impetus to become larger and larger, so I don't—if I understand your theory correctly. I don't dispute the theory. But I would like to allow—be given the time to respond in writing to the specifics of the question.

Mr. COX. I make the kind of question because I am so convinced that if the Department does grow like Topsy that it will lose its focus and we will be less safe. So we have got to keep it focused on this mission.

Mr. BARTON. I agree with that.

Mr. COX. I also make the comment because in your prepared remarks you mentioned that it might be difficult to distinguish between what is homeland security and what is everything else, and

I think we have got to get past that. We have got to come up with a definition.

Chairman Goss was here earlier and made the point in his formal testimony, you know, one of the things that Congress needs to do and the Department needs to do increasingly a better job of is defining what is homeland security. It can't be in the eye of the beholder. It can't be whatever we say it is and change our mind constantly. It has to be focused.

Mr. BARTON. I can tell you in my congressional district, everybody—almost every municipality and their subdivisions thereof now have a grant asking me to support for some effort that they classify as homeland security. And I don't think my district is unique. You know, I am besieged. I won't say overwhelmed, but I am—I have probably hundreds of requests for specific grants that are categorized as homeland security because we have funded that and it has been a high priority, as it should be, to focus on it.

Mr. DINGELL. I would like to make a couple of observations. One, if that is a deep concern and you feel the committee must be kept, there is nothing to say that this committee could not continue to be a select committee and that it could serve in that fashion. But if there is a need to have that be focused on by the standing committees, that could be inserted into the rules and the Speaker can see to it then that the rules are carried forward by the committees which have the jurisdiction.

I don't see anything which has transpired during this session of Congress or the prior one which was any different really because of the presence of this committee. It was a response by the Congress, and I of course have some concern about the fact that the Congress keeps getting bigger and bigger. We keep getting castigated more and more for the multiplication of efforts and the amount of work and friction in bureaucracy and wasted time, money and energy that goes into this body. And a major part of that is by the fact that the committees keep getting larger and larger and we keep getting more and more of them.

And I want just to give you some history, and I apologize for this, but when I came here, the Committee on Energy and Commerce was smaller than most of its subcommittees. A subcommittee had three to five members. Five members was a big subcommittee. When we got done with the hearings, which went expeditiously because we didn't have, what is it 44 or 46 members—

Mr. BARTON. We have 57 members of the Energy and Commerce Committee.

Mr. DINGELL. Making opening statements at 5 nutes a head. We could dispose of the hearings on a piece of legislation in a day and have time for proper inquiry of the witnesses. And the end result was that we would then close the doors, take off our coats, roll up our sleeves and have a huge Donnybrook, and sharp words were used and everything else. But the result was that we came forward with legislation upon which we were in agreement. And that legislation then went through the Congress without any real difficulty because it wasn't so complicated and we hadn't made ourselves so muscle bound that we really had problems in legislating.

And you can keep on increasing the number of committees. The Peter principle says every time you have a problem you set up a

committee or you set up a study group or you do something else like that. But that doesn't address or focus upon the problem that you confront.

So my statement to you, and my prayer to you would be let us not increase the complexity of the Congress. Let us not increase the number of committees. Let us not increase the amount, the number of units of work that must be done to a unit of accomplishment because that is simply to invite more delay and more disaster and more problems for the Congress. And with all due respect, and I say this sincerely, the members of this committee have tried hard and I believe you have served well and you have served honorably. But we are going to get so big around here in terms of the number of committees and number of responsibilities the Members have that we are going to have to have one of these searing, tearing reorganizations that takes place, causes no end of trouble, and leaves a lot of Members adrift without things to do, that distorts the function of the Congress for years.

That happens every time we have a reorganization, and it also happens every time you reorganize the executive, because I find no real benefit that has been accomplished by setting up a Department of Homeland Security. They simply moved a lot of agencies over there. They don't get along with each other. We had a similar situation when we set up the Department of Energy. Everybody hated each other inside the Department of Energy. It was 20 years before we got them to work together. A similar situation with regard to the Department of Education. And I would just say that the simpler we can make this business of ours the more successful we will be, and more committees are not going to contribute to that.

Mr. DIAZ-BALART. You have both been very patient and helpful—

Mr. COX. Mr. Chairman, if I might just—

Mr. DIAZ-BALART. Yes.

Mr. COX. Just as a member of both committees, I observe that first with respect to your comment, Mr. Dingell, that you are not sure what difference has followed from the Select Committee's work. As a result of over 35 hearings of the Select Committee, we put forward a dramatic restructuring of first responder grants already, and the Department has changed very much the way that it is focusing its first responder grant money. We are putting in a very strong emphasis on intelligence threat and vulnerability. We have focused a great deal of attention on the threat advisory system and that has become much more refined as a result. We have, after the Senate committee of jurisdiction, without question gone forward with BioShield as an entitlement program. We drew to the attention of the Energy and Commerce Committee the importance of stopping that as an entitlement program, and as you know, we have now passed in the House collaboratively between Energy and Commerce and our committee not as an entitlement program because we so strongly believe, and Energy and Commerce was in agreement on this point, that this not be unsustainable. And I think very importantly, we put a very strong focus on the Infrastructure Protection and Information Analysis Directorate. There is a different person running that now following the hearings that we have had, over 35, as I mentioned, on these subjects alone.

In contrast with that, the list that the committee provided the Energy and Commerce Committee to this hearing of all of the entirety of the work that has been done during the 108th Congress lists not a single full committee hearing, and one of the five hearings that was conducted was a joint hearing with our committee. There is just not time nor the jurisdiction with Energy and Commerce to reach all the things that the Department of Homeland Security is doing, and I would just tell you that I have made it my priority to attend all of my subcommittee meetings and hearings not to mention markups and full committee hearings and markups in Energy and Commerce, and I see very little overlap with the work that—the very important and substantial work we do in Energy and Commerce as what we are doing in the select committee. I just think they are as different as night and day. But that is my observation.

I would also, with respect to the growth of Congress point, just add that historically whenever we have created a significant new department we have also assigned authorization and oversight responsibility to a committee in the Congress. It is true for the Department of Defense, true for the Department of Education, true for the Department of Energy, and it is not clear why with a national security mission as important as protecting the country it should be different for the third largest Cabinet department, the Department of Homeland Security.

Mr. DIAZ-BALART. You both have been very patient, but I would like to ask one last question, based on something that you both stressed. You both testified that the jurisdictional overlap is inherent in the committee system and that a new committee would not reduce the overlap, but would rather create many new and untested overlaps. Also, you have both testified that in your opinion a new committee is not needed.

Former Speakers Gingrich and Foley testified before us that there should be a standing permanent committee with authorization jurisdiction to provide simple, focused, centralized and efficient oversight of the Department of Homeland Security. Both Speakers, as I am sure you recognize, have an intimate understanding of the House committees and jurisdiction. They both rejected the notion that a new standing committee would increase overlap if it were done right. They both also said that while overlapping jurisdiction may be acceptable or even desirable on some issues, as you both, I believe, pointed out, it is not for such a critical mission as homeland security.

Why do you believe Speakers Foley and Gingrich are wrong? They both suggested that opposition is based on turf issues. How do you respond?

Mr. BARTON. Well, I would respond, Mr. Chairman, that if you had asked them whether there should be reorganization of the entire House or a consolidation, they would have also responded in the affirmative to that, because they are both former Speakers and they know that over time things grow and, as they grow, they develop some of the discontinuities that Chairman Cox alluded to. My recollection, and I didn't read their testimony, but I did watch snippets of it that was presented through the media, at least with regard to the Energy and Commerce Committee, I don't remember

any specific failures that they alluded to in our mission statement. So I think, you know, I wouldn't say they were wrong. I think they were just responding kind of in a natural fashion that here is a specific issue that is a hot issue right now. We ought to focus on it. I think we are focusing on it through the select committee, but I think it is an open question whether it should be made a permanent committee.

I also, before I yield to Mr. Dingell, want to respond to something that Congresswoman Dunn said because I misresponded. I thought the rules of the House allowed five subcommittees on each committee. The rules of the House allow five subcommittees plus an oversight subcommittee if you choose to have it, which is what the Energy and Commerce Committee has chosen. So her suggestion that we create a Homeland Security Subcommittee I would support either for my committee or for all committees that have jurisdiction over homeland security if we could go to six authorization subcommittees plus an oversight subcommittee. I think that would be a good idea.

Ms. DUNN. May I comment, please? That was not my suggestion. That was my question to you if you felt that that would adequately—I am a supporter of a standing committee.

Mr. BARTON. Yeah. But I mean I would certainly, you know, one way to focus, in my committee on the homeland security issues, and Mr. Cox alluded to it, would be to have a specific Subcommittee on Homeland Security and I am fine with that if I can maintain the ones that I already have. I wouldn't want to give one up to get that one.

Mr. COX. Will the gentleman yield?

Mr. DIAZ-BALART. Yes, and I am trying wrap up this panel.

Mr. COX. I would just note doing the arithmetic that if there is a concern about Congress growing, then if we were to add a Homeland Security Subcommittee to each of the standing committees that have jurisdiction we would quickly move from 88 committees and subcommittees to over a hundred.

Mr. BARTON. Well, but if want to focus, you know, that is the way to do it and you are going to get—I guarantee you if y'all put that before the conference, the Republican Conference, I will let Mr. Dingell speak for the Democratic Caucus, but if you put it before the Republican Conference the creation of an additional subcommittee on each committee is going to pass overwhelmingly because that means there is an additional subcommittee chairman or chairwoman.

Mr. COX. But if you have over a hundred committees and subcommittees with jurisdiction over something then I think the analog to socialism is perfect. If something is owned by everyone, it is the responsibility of no one.

Mr. BARTON. You give us that and I guarantee you we will take ownership.

Mr. DIAZ-BALART. We are going to—you have been very patient. We are going to wrap this up. Ms. McCarthy had a final point she wanted to make briefly.

Ms. MCCARTHY. It was just on this point that is being discussed now, that the Commerce Committee, having vast jurisdiction already over the homeland security issues expand the Oversight Sub-

committee, Mr. Chairman, to include homeland security. Because so much of it goes, comes to our committee anyway it would make a lot of sense.

Mr. BARTON. I agree with that.

Mr. DIAZ-BALART. Thank you both very much. You have been very patient. Appreciate your testimony.

Mr. DINGELL. Thank you, Mr. Chairman.

Mr. DIAZ-BALART. Mr. Davis and Mr. Waxman. We welcome the chairman and the ranking member of the Committee on Government Reform, Mr. Davis, Mr. Waxman, and you are free to proceed with your testimony. Mr.Davis.

**STATEMENT OF THE HONORABLE TOM DAVIS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VIRGINIA, AND CHAIRMAN, COMMITTEE ON GOVERNMENT REFORM**

Mr. DAVIS. Thank you, Mr. Chairman and Ranking Member Slaughter, and on behalf of the Government Reform Committee I want to thank you for holding these important hearings on whether the House is appropriately organized to consider homeland security matters or do we need to add another appendage, which in my opinion is kind of a backsliding from where we were with the Contract with America, where we came in and we abolished committees, we didn't add committees to the House, trying to streamline the procedures.

My friend and the ranking member, Mr. Waxman, and I are here to testify that with positive changes the House will be organized to ensure that Homeland Security receives the resources and scrutiny it deserves. Because the success of the Department is vital to the continuing economic recovery and winning the war on terrorism, we all want it to succeed. Congress must provide the Department with the proper resources while at the same time maintaining aggressive oversight to ensure that this massive reorganization and commitment of resources succeeds.

We must ask if the House, as currently organized, has and will continue to aggressively oversee this new Department. More importantly, I believe a major congressional reorganization will only hinder oversight and legislative priorities. In the past others have testified that without a permanent committee exclusively devoted to DHS Congress would drop the ball. The past year and a half has shown that this is I think wrong. There has been no lack of oversight or legislative activity to make sure that we get homeland security right.

Our committee maintains an aggressive posture when it comes to overseeing DHS. Whether through legislation or oversight hearings the Government Reform Committee is fulfilling its role as the primary oversight and investigation committee of the House. With the cooperation of all of our members, our subcommittees and the full committee, we have held numerous oversight hearings, field visits and markup actions pertaining to the Department.

For example, the committee held oversight hearings on topics related to FEMA, TSA, first responders, critical infrastructure, visa policy, preparedness standards, DHS financial accountability, border management, port security and product litigation management, to name just a few. We held markups on Project BioShield, the

Presidential Vacancy Act and the DHS Financial Accountability Ability Act. We are fulfilling our role and no one should question whether DHS would escape scrutiny if there weren't a committee in Congress under the same name.

The existing committee structure has been criticized for the number of committees with jurisdiction over agencies and programs that contribute to homeland security, but the creation of a permanent homeland security panel would only exacerbate the program of jurisdictional overlap. Jurisdictional overlap is inherent in the committee system. The new committee won't reduce the overlap. It only creates many new and untested overlaps. It will not reduce jurisdiction overlap if we increase the number of committees responsible for transportation, emergency management, law enforcement, public health, immigration and the many other matters involved in ensuring homeland security.

As I know too well, jurisdictional conflicts happen. It is the responsibility of committee chairman to manage these conflicts. When the overlap is well understood and tested through precedent, committees can focus on solutions, not turf. New and undefined overlaps too often result in turf battles that delay and even prevent positive outcomes.

A new full Committee on Homeland Security would generate many new jurisdictional overlaps and conflicts. Each of the conflicts would be untested and unsettled. It is my experience that these gray areas are the source of unproductive jurisdictional squabbles among committees, not overlap which exists under any committee's structure.

Ensuring that DHS remains strong and that Congress is appropriately organized to oversee this Department requires only minor adjustments. With a few tweaks the current committee structure would be well prepared to support and oversee DHS in its critical mission. I suggest that the House agree upon an organizational map. You could do it similar to the Senate model. As in the Senate, current committees would continue to oversee their legacy agencies, while Government Reform, like Governmental Affairs in the Senate, would oversee the administration of the Department's headquarters and departmentwide policies as well as White House efforts to coordinate homeland security policy.

The Government Reform Committee already has jurisdiction over these matters through its authority over agency organization, human capital, IT security, Federal-State relations, procurement and the management and efficiency of government organizations. Reenforcement of this authority along with any clarifications between the other committees where the combination of agencies or functions may have muddied the existing jurisdictions would preserve our present strength and let the House focus on DHS and its mission, not turf battles.

The committee I chair was at the center of the last major reorganization in the House when Government Reform absorbed the D.C. Committee and the Post Office and Civil Service Committee. These moves had their doubters who most of the time thought they would result in the neglect of those issues. I am pleased to report that neither has been forgotten. In fact, since the reorganization the Government Reform Committee has passed landmark legislation

affecting the District of Columbia, more so than when it existed as a committee by itself. The Federal Civil Service legislation we passed, the major civil service reform this last year for the Department of Defense, which is over half of civil service, and hopefully with the help of many here today we are going to pass major postal reform this year even though we don't have a dedicated committee just for that.

Our committee is living proof you don't need a marquis committee name to make sure your agency is highlighted in the halls of Congress. I know this existing structure works because this is how the House oversees and coordinates our Nation's drug policy, which is also—our committee has jurisdiction. The Office of National Drug Policy, ONDCP, created by Congress in 1988 partly through leadership of then Government Reform Subcommittee Ranking Member Danny Hastert, established policies, priorities and objectives for the Nation's Drug Control Program. The Committee on Government Reform holds jurisdiction over ONDCP, but the Committees on Judiciary and Energy and Commerce oversee the major components of national drug policy, including law enforcement and public health.

As I have worked this Congress on reauthorizing ONDCP, we have been pleased with the working relationship among the committees involved. This model can work for homeland security as well. This proposal would maintain existing areas of expertise and relationships with executive branch agencies. The proposal strengthens the parallel structures of House-Senate relations.

And, finally, by designating Government Reform as the lead committee on cross-agency proposals when no other committee could naturally receive the primary referral ensures that homeland security efforts will be coordinated. I believe that framework will work and that the issue of whether homeland security is adequately addressed will be protected.

In closing, I want to stress how important the issue of homeland security is to me in my congressional district across the river from here and to members of my committee. I am confident that if organized correctly no one will question our ability to oversee and contribute to the security of our great Nation.

PREPARED STATEMENT OF THE HONORABLE TOM DAVIS, A REPRESENTATIVE IN CONGRESS, FROM THE STATE OF VIRGINIA

Mr. Chairman, and Ranking Member Slaughter, on behalf of the Government Reform Committee, I would like to thank you for holding these important hearings on whether the House is appropriately organized to consider homeland security matters.

My friend and Government Reform's ranking member, Mr. Waxman, and I are here to testify that with positive changes the House will be organized to ensure that homeland security receives the resources and scrutiny it deserves. Because the success of the Department is vital to the continuing economic recovery and winning the war on terrorism, we all want to see it succeed.

Congress must provide the department with the proper resources while at the same time maintaining aggressive oversight to ensure that this massive reorganization and commitment of resources succeeds.

We must ask if the House, as currently organized, has and will continue to aggressively and effectively oversee this new department. More importantly, I believe a major congressional reorganization will only hinder oversight and legislative priorities.

In the past others have testified that without a permanent committee, exclusively devoted to DHS, Congress would drop the ball. The past year and a half has shown

that this is, quite simply, wrong. There has been no lack of oversight or legislative activity to make sure that we get homeland security right.

My committee maintains an aggressive posture when it comes to overseeing DHS. Whether through legislation or oversight hearings, the Government Reform Committee is fulfilling its role as the primary oversight and investigation committee of the House. With the cooperation of all our Members, our subcommittees and the full committee have held numerous oversight hearings, field visits and markup actions pertaining to the Department.

For example the committee held oversight hearings on topics relating to FEMA, TSA, first responders, critical infrastructure, visa policy, preparedness standards, DHS financial accountability, border management, port security and product litigation management to name just a few. We held markups on Project Bioshield, the Presidential Vacancy Act, and the DHS Financial Accountability Act. We are fulfilling our role and no one should question whether DHS would escape scrutiny if there weren't a Committee in Congress under the same name.

The existing committee structure has been criticized for the number of committees with jurisdiction over agencies and programs that contribute to homeland security. The creation of a permanent Homeland Security panel, however, would only exacerbate the problem of jurisdictional overlap.

Jurisdictional overlap is inherent in the committee system. A new committee wouldn't reduce that overlap—it would only create many new and untested overlaps. We will not reduce jurisdictional overlap if we increase the number of committees responsible for transportation, emergency management, law enforcement, public health, immigration, and the many other matters involved in ensuring homeland security.

As I know only too well, jurisdictional conflicts happen. It is the responsibility of committee chairmen to manage these conflicts. When the overlap is well understood and tested through precedent, committees can focus on solutions—not turf. New and undefined overlaps too often result in turf battles that delay and even prevent positive outcomes. A new full committee on homeland security would generate many new jurisdictional overlaps and conflicts. Each of the conflicts would be untested and unsettled. It is my experience that these gray areas are the source of unproductive jurisdictional squabbles among committees—not overlap, which exists under any committee structure.

Ensuring that DHS remains strong and that Congress is appropriately organized to oversee this department requires only minor adjustments. With a few tweaks, the current committee structure would be well prepared to support and oversee DHS and its critical mission. I suggest that the House agree upon a organizational map that resembles the Senate model. As in the Senate, current committees should continue to oversee their legacy agencies—while Government Reform, like Government Affairs, would oversee the administration of the department's headquarters and department wide policies as well as White House efforts to coordinate homeland security policy.

The Government Reform Committee already has jurisdiction over these matters through its authority over agency organization, human capital, IT security, Federal-state relations, procurement and the management and efficiency of government operations. Reinforcement of this authority along with any clarifications between the other committees, where the combination of agencies or functions may have muddied the existing jurisdictions, will preserve our present strengths and let the House focus on DHS and its mission, not turf battles.

The Committee I chair was at the center of the last major reorganization in the House when Government Reform absorbed the DC Committee and the Post Office and Civil Service Committee. These moves had their doubters and most at the time thought they would result in the neglect of those issues. I am pleased to report that neither has been forgotten. In fact, since the reorganization, the Government Reform Committee has passed landmark legislation affecting the District of Columbia, the Federal civil service and hopefully with the help of many here today, major postal reform. My committee is living proof that you don't need a marquee committee name to make sure your agency is highlighted in the halls of Congress.

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The Office of the National Drug Control Policy (ONDCP), created by Congress in 1988 partly through leadership of then Government Reform subcommittee ranking member Denny Hastert, establishes policies, priorities, and objectives for the Nation's drug control program. The Committee on Government Reform holds jurisdiction over ONDCP; however, the Committees on the Judiciary and Energy and Commerce oversee the major components of national drug policy including law enforcement and public health. As I have worked this Congress on reauthorizing ONDCP,

I have been very pleased with the working relationship among the committees. This model will work for homeland security as well.

This proposal would maintain existing areas of expertise and relationships with executive branch agencies. The proposal strengthens the parallel structure of House-Senate relations. Finally, by designating Government Reform as the lead committee on cross-agency proposals when no other committee would naturally receive the primary referral, ensures that homeland security efforts will be coordinated. I believe this framework will work and that the issue of whether homeland security is adequately addressed will be protected.

In closing, I want to stress how important the issue of homeland security is to me and to the members of my committee. I am confident that if organized correctly no one will question our ability to oversee and contribute to the security of our great nation.

Mr. DIAZ-BALART. Thank you, Mr. Davis.

Mr. Waxman.

**STATEMENT OF THE HONORABLE HENRY A. WAXMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA, AND RANKING MEMBER, COMMITTEE ON GOVERNMENT REFORM**

Mr. WAXMAN. Thank you, Mr. Chairman. I am pleased to have this opportunity to come before this Subcommittee on Rules and give you my thoughts about whether we ought to have a continuation of a Select Committee of Homeland Security or a new standing Committee on Homeland Security. All of us share the goal of ensuring that the Department of Homeland Security operates as effectively as possible on security matters. The question is how can the Congress promote that end in the most efficient way possible?

One of the key contributions Congress can make is conducting oversight, and there is no question that good congressional oversight helps agencies do the job, the best job they can. The problem we face now is that there are too many committees reviewing homeland security matters. The Transportation and Infrastructure Committee, the Ways and Means Committee, the Energy and Commerce Committee, the Agriculture Committee, Judiciary Committee, the Government Reform Committee, and others all conduct oversight of homeland security activities. Sometimes from different perspectives, but nevertheless all these committees are potentially involved in one way or another.

The continuation of a select or standing Committee on Homeland Security compounds the problem. It adds another committee and another layer of oversight. We literally have a situation where three committees have authorities regarding every program in the Department. One is the traditional authorizing committee, one is Government Reform, which has governmentwide oversight responsibilities, and one is the present select committee, and that is simply too many.

Now there is a better model. The better model is what the Senate is doing with this very same issue. There the existing committees with relevant jurisdiction conduct oversight over the agencies in their jurisdiction and the Governmental Affairs Committee oversees issues such as coordination of homeland security activities. They were wise enough to figure out how to do the job of oversight in the Senate without creating another layer of bureaucracy, setting up more committees is another layer of bureaucracy.

I was amused to hear Chairman Barton say that the Republican Conference, that members there would like to create more subcommittees so there could be more subcommittee chairmen and women. Well, to me that doesn't sound like what I thought the Republicans were all about. I thought we were supposed to be shrinking government, not expanding the number of committees and subcommittee just so members could be chairmen of committees. That is not what our job is all about. Our job is to make sure the government functions appropriately.

Now we had a special committee create the Homeland Security agency, and that was done in the past when legislation brought together all the different committees of jurisdiction to develop the energy policy in the 1970s. But I don't recall ever a committee being created solely for the purpose of responding to a new Cabinet level. The Department of Energy was created in the late 1970s. There are five standing committees in the House that have some aspect of jurisdiction over Energy.

Mr. WAXMAN. There wasn't an energy committee created. There was already the Energy and Commerce Committee that had its primary jurisdiction on energy issues. The other cabinet level agency that was created was the Department of Education. Well, we didn't create a new Committee on Education in the House, we already had a Committee on Education in the House, and that committee does it job. We have a Department of Health and Human Services. Well, we have ways and means with jurisdiction over Health and Human Services, we have the Energy and Commerce Committee with jurisdiction over some of those issues, we have the Infrastructure Subcommittee, which has jurisdiction, and the committee we used to call Education and Labor, whatever it is called now, they have some jurisdiction over these matters. Should we create a new Committee on Health and Human Services to do the job that is already being done by these other committees? It seems to me the question answers itself.

My remarks should not be interpreted as questioning the commitment and effort of current members of the select committee on Homeland Security. Rather, my point is that it is not in the long-term interests of the Department of Homeland Security and the taxpayers to have duplicative congressional oversight. The continuation of a select committee or a standing committee on Homeland Security would result in spending more money, devoting more resources to activities that other committees, other standing committees already are doing, and they are certainly competent to continue to do that work.

I urge my colleagues to consider terminating the committee on Homeland Security and to let the committees of jurisdiction that are the standing committees do the job of oversight to help make sure this agency performs appropriately.

Mr. DIAZ-BALART. Thank you both.

I would point out, Mr. Waxman, we were informed by some of the experts that testified earlier before us that, after the creation of the Department of Defense, the Armed Services Committee was created. I think you pointed out, never has it been done.

Mr. WAXMAN. I don't know that any of us were here, but I am certain there was maybe a committee on the war policy. So they

changed the name to the Committee on Armed Services in the House. But I am not sure, and none of us were here at the time.

Mr. DIAZ-BALART. We weren't here, but we received testimony on that.

Mr. WAXMAN. But that is certainly an important area of expertise. And I think the history of where the committees have conducted that responsibility is clear. But to point out the other examples that we have had with energy and education, which are the two most recent cabinet level positions.

Mr. DIAZ-BALART. Those are more recent. But I didn't want the record not to reflect the creation of the Armed Services Committee after the—

Mr. DAVIS. Could we supplement our testimony on that point? Because I think when you go back, you are going to find there was a committee that dealt with this, as Mr. Waxman said. I didn't bring any documentation, but—

Mr. DIAZ-BALART. No, but we went through World War II without one.

Mr. DAVIS. That is our whole point.

Mr. DIAZ-BALART. What Mr. Waxman said was it had never been done.

Mr. WAXMAN. I would like to research and put an addendum in the record, which may be an apology, because you may be right and we are wrong.

Mr. DIAZ-BALART. You are more than welcome to submit any supplementary.

Mr. COX. Would the chairman yield?

Mr. DIAZ-BALART. Yes.

Mr. COX. I would just point out, I think we are confusing two different concepts. One is whether or not there was a responsibility in the Congress antedating the of a cabinet department. And the other is whether or not our House rules have ever been changed to give a committee of Congress primary jurisdiction over a cabinet department.

And that has happened not only repeatedly, but it has happened each of the last three times we have created a new cabinet department, so that the House rules specifically recognize the cabinet department in Rule 10 with respect to the Department of Energy where primary jurisdiction is within the Energy and Commerce Committee; with respect to the Department of Education where primary jurisdiction is within the Committee on Education and the Workforce; and with the Department of Defense where primary jurisdiction is within the Committee on Armed Services.

Mr. WAXMAN. So I think in those cases, they designated a committee that was already in existence to be the primary committee. And what we are suggesting is we don't need another one.

Mr. COX. It is not my time, but that would be a useful point.

Mr. DIAZ-BALART. We certainly heard what you are suggesting, and we appreciate your testimony.

Given the Government Reform Committee's responsibilities for all of the various elements of its existing Rule 10 jurisdiction, I guess the key question or the most important question would be, how can we best ensure that sufficient attention is being devoted to oversight of the Department of Homeland Security and the crit-

ical task of overseeing and authorizing the functions of the third largest department of the Federal Government charged with the security of our population from the domestic terrorism? That is the key, and that is what we try to focus on in this and other hearings.

Mr. DAVIS. We have held over 35 hearings on matters pertaining to this department this year in our committee, just for the record. We have been active in legislative markups that affected it, on bioshield and other areas that also affect the committee. I don't think there is any problem that they are doing it. The Senate committee has stepped up to the same thing, I might add, without additional staff.

Our concern is simply this: Some of the biggest issues that face a new department that is put together with different cultures from different agencies and the like go to human capital functions, procurement functions, bringing those together. That is what our committee deals with. That is at the core of what the government committee does. To write us out of this thing and move it over to another committee I think would be a huge error at this point. And that is basically where the committee needs most of its oversight, immigration.

I think the Judiciary Committee has the expertise in this. They have been guarding law in that area for a long time. Bioterrorism, the CDC, NIH are under the jurisdiction of Commerce. We don't have to lose those jurisdictions by moving for a new committee where I think we are going to have jurisdictional fights up and down.

And, also just to go to the tendency sometimes where the committees get very cozy with the departments. Mr. Waxman and I simply went through this with mad cow disease where dealing with one of the local committees with oversight, very cozy with the leadership and not wanting to hold a hearing. And it turns out the cow—I mean, we got some concessions that some of the investigation we had done turned out to be correct.

So that is my observation, if you really want us to be proactive in terms of the oversight on that. I don't think you lose a thing by using the Senate model in this case.

Mr. DIAZ-BALART. Ms. Slaughter.

Ms. SLAUGHTER. Thank you, Mr. Chairman.

Given your wide jurisdiction over other parts of the government, how would you handle the authorization process for DHS?

Mr. DAVIS. Well, you have different authorization process. I don't know that you would have a DHS authorization bill. We don't have authorization bills for a lot of departments. You potentially could do that. I would think immigration would probably stay over where it is at this point.

But in terms of focusing on the core mission, which is what Mr. Cox addressed, that is the thing our committee does through GPRA, the Government Performance and Results Act, an Act passed by this Congress where we had agencies define their mission and what were they doing to carry out that versus what were they doing extra to that. Those are the kinds of things our committee would do. But I wouldn't expect to take CDC away from the Commerce Committee, who has had it a long experience in oversight on that.

Ms. SLAUGHTER. We heard that before today on Agriculture, that AFIS and other things have been retained in the Agriculture Department, which I believe sort of flies in the face of the idea of putting a humongous agency together in the first place. Do you believe that creating the agency was a bad move?

Mr. DAVIS. I will give you my view. I think, I wish that we had permanent reorganization authority, which is a bill that we are going to be taking up later this year. That allows the executive branch to come in with how they think an agency ought to be run, reorganize it, and send it to Congress with an up or down vote without amendment. Presidents from 1932 to 1984 had that authority. We didn't have it in this case. So instead of a thoroughbred agency, since it has to go through Congress and all the jurisdictional fights, we ended up with a camel.

And I think the way it is organized right now is going to be a continuing work in progress for many years. But I don't think the creation of a new committee helps that. I think we are probably better off dealing with the jurisdictions that have the expertise in these areas and letting the government committee take the lead in some of the aspects of bringing these areas together.

Ms. SLAUGHTER. Mr. Waxman.

Mr. WAXMAN. Well, I voted against creating a new Department of Homeland Security. I didn't see that it made a lot of sense to take all these different functions, some of which had nothing to do with national security, and put them in one department, but not have intelligence in that. You have the FBI separate, you have the CIA in a separate agency. But I lost. I voted on the losing side of that fight. Now we have a department.

Your question was an interesting one. Who would do the authorization bill? There is not going to be an authorization bill as such now that it is created. We don't have an authorization bill for the Department of Health and Human Services, we don't have an authorization for other cabinet departments. But there are different issues that come up. So we would, let us say, defer to the intelligence committee on some of the intelligence issues affecting Homeland Security. Our committee would defer to the Energy and Commerce Committee when it comes to those issues that are before that committee.

But we have jurisdiction over, as Chairman Davis pointed out, all these different governmental functions and structure and civil service issues. And we would continue to look at that as well as our general oversight jurisdiction which covers everything and even duplicates at the present time the oversight that the standing committees have.

So as I pointed out, we don't have oversight; the standing committees have oversight. And now we are going to create another committee that will have oversight jurisdiction.

Ms. SLAUGHTER. Well, I think what we want to do is take theirs away. Isn't it? From the other standing committees.

Mr. WAXMAN. I think that would be a serious mistake.

Ms. SLAUGHTER. Well, I agree. We would probably be hand to hand combat, I would think.

Mr. DAVIS. Well, on procurement and civil service issues, that would be precedential in this House, to give one agency exclusive

jurisdiction over those areas for their agency, and I think it would ruin the civil service.

Mr. WAXMAN. And we haven't done that for the military. There is an Armed Service Committee that shares jurisdiction with us on the civil service questions that affect the military. We had a bill last year that we all went to combat over and had disagreements. But it is important to have different committees that develop different expertise. When you have only one committee—I think that the point has been made over and over again. When you have only one committee, that committee tends to get to be quite comfortable with the bureaucracy, and you don't get that kind of oversight that you need when you have multiple committees looking at it from different perspectives. At least that is my point of view. We may have a disagreement. But I am here just to share with you my views.

Ms. SLAUGHTER. And it is what we want. And I agree with you that—it never occurred to me at the beginning of this that the intelligence agencies wouldn't be a part of it. It would seem to me that they would be the backbone of it.

Mr. WAXMAN. You would have thought.

Ms. SLAUGHTER. And I was really quite struck with the fact that they did not care to join. And I do think that that weakens the whole Department. Nonetheless, we have it, and we do need to know what to do with it. Thank you both very much.

Mr. DIAZ-BALART. Ms. Dunn.

Ms. DUNN. Thanks for being here. We are interested in getting your perception on how this should move. Who would you say, which committee would you say that should be the primary, the committee of primary jurisdiction over Homeland Security?

Mr. DAVIS. I think, I mean, as in the Senate model, the Senate Government Affairs Committee has the primary jurisdiction. Now, when I say primary jurisdiction, we are talking about agency reorganization issues, issues that occur when you are taking 27 different agencies and 170,000 people, putting them together, keeping them to their mission, something that Chairman Cox mentioned earlier. That is what we do. Those are the kinds of governance issues that we do.

When it comes to individual jurisdictional issues like the Center for Disease Control, Immigration, some of those issues, we would obviously defer to the committees on expertise.

Mr. WAXMAN. Could you tell me who has primary jurisdiction over the Department of Health and Human Services under the House rules? I know that the Ways and Means Committee has a lot of say over the various aspects of that committee's jurisdiction, as does the Energy and Commerce Committee, and the Ag Committee. I don't know what would be—what benefit there would be in saying any which one of those committees should be the primary committee. They should be the—they should have jurisdiction over those issues where they had written into the rules as their overview on those policy issues and as it affects the Department of Health and Human Services, and that is how they interact.

So I am not convinced that we need a single primary committee to be designated with primary jurisdiction.

Ms. DUNN. There are some people who have told our committee in testimony, former speakers, for example, but also others includ-

ing the Chairman and the Ranking Member of the House intel community, that this responsibility is of the primary importance, like the top responsibility now of the United States Congress. Do you believe that we can carry out this responsibility adequately with the committee system that we have now, and bring to it adequate focus to make sure that we are taking on the responsibilities that our constituents expect us to carry on their behalf, considering this is something that is really quite new in our lexicon since 9/11?

Mr. DAVIS. Ms. Dunn, I would start in saying I think you would do a better job under the older system than the existing for this reason: You keep—the Intelligence Committee isn't woven into the new Homeland, Security Committee. That is a central function of the agency, to kind of correlate some of those areas. They have all the different intelligence agencies, but they have got to collate it and put it together.

On issues pertaining to bioterrorism, those kind of issues, those are issues that you need to bring the CDC in some of those areas.

Congress pays a lot of attention, they have held more hearings this year on those issues than they ordinarily would because of the bioterrorism effect and the homeland. It is good to have a lot of people engaged in this, not a select group. And I think there is a tendency when you assign a cabinet department to a committee to get a certain coziness up there on these issues that you don't get when you have a lot of other committees that can participate in the process.

You are going to continue to have jurisdictional fights even as this is envisioned, but we have precedent for a lot of these fights at this point. This brings whole new areas of precedents. One of the biggest controversies for this committee right now is on its civil service aspects and its human capital issues. Are you going to give it to that committee, or does it stay with Government Reform who deals with this across government? Those are the kind of issues that I think still aren't addressed by setting up a new committee. And, in fact, I think you set up some needless clashes. I mean, that is just my reaction to it.

Mr. WAXMAN. I certainly agree with that point of view. And I think we can do the job effectively with using the Senate model, which is, as we pointed out, to use the existing committees of jurisdiction, not to create a new one. If every time we have a new problem in this country we create a new committee and overlapping jurisdictions, it seems to me that there is no end to it. And I think we ought to decide what is the rational way to handle this thing without spending taxpayers' money.

We have got to use that money—we have got to spend less money here so we can give more tax breaks to billionaires. And, therefore, I don't want us to waste that money on another standing committee called Homeland Security if it is not going to give us any more benefit in dealing with the oversight that Congress should be exercising. Of course, I say that tongue in cheek.

Mr. DAVIS. I wanted to clarify that. I am not for protecting billionaires. Well, they all live in your district.

Mr. WAXMAN. I also don't want the deficits that we are going to see with this attitude of let us just keep spending and keep borrowing.

Ms. DUNN. You are staying right on message, Ranking Member. I think the comment that is obvious on your comment that why start a new committee for every problem that comes along. This is a unique problem and it is a serious problem, and it could very well be the most serious problem we have ever faced in the history of our Nation, and I think it is very important to have a strong response. And I would simply ask you, as a follow-up, which committee would be the coordinating committee of all the responsibilities? For example, as we try to establish inner communication among agencies, the sort of thing that is necessary that we felt we had a lack of under 9/11?

Mr. DAVIS. That is under the purview of Government Reform. All government organizational issues come under the Government Reform Committee. That is traditionally what has happened. So on those kind of issues where you don't need specific expertise but really the expertise in governance, those are the issues we deal with every day because we have jurisdiction and oversight over every agency of government in calling attention to those kind of things.

You don't necessarily make the problem better by throwing a committee at it. In some ways, you can make it worse. And that is—I mean, I guess if I say anything to you, we need to think very carefully about by adding another committee on here on top of everything else, are you discouraging other committees from having oversight, from taking an interest in this, taking an outside perspective, by putting it within a committee? I think this could work very well under the Senate model. And I usually don't say that, but I think in this particular case it works.

Ms. DUNN. And I would say, Mr. Chairman, on the other hand I think it works far better when you have a committee of jurisdiction with focus on the problem being the committee in charge working with committees of other jurisdictions in combined efforts on authorization bills, for example. Thank you.

Mr. DIAZ-BALART. Thank you both very much.

I believe we have on behalf of the Committee on Transportation and Infrastructure, Mr. Mica. Welcome. The ranking member Mr. Oberstar will be coming?

Mr. MICA. I think he is on his way. But if you wanted, I could proceed.

Mr. DIAZ-BALART. Thank you for being here, and we welcome and look forward to your testimony.

Mr. MICA. Well, thank you, Mr. Chairman and Ranking Member Slaughter and members of the committee.

Mr. DIAZ-BALART. Mr. Oberstar, please, welcome.

**STATEMENT OF THE HONORABLE JOHN MICA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA, AND MEMBER, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE**

Mr. MICA. Mr. Oberstar and I are pleased to be here to share our views about the future of the Homeland Security Committee with you today.

Last year, I did not believe a Homeland Security Committee was necessary for the House to use to specifically address terrorism. Not much has happened since that time to change my mind. Any time you combine 170,000 Federal employees and some 22 agencies, it raises my concern and eyebrows.

Some have argued that a separate committee focused solely on Homeland Security is necessary to address terrorism. This assumes that the standing committees are incapable or uninterested in oversight and producing effective legislation. It also presumes that a new committee with little subject matter, expertise, or institutional knowledge can produce better Homeland Security legislation. I am afraid this argument is flawed, and the evidence points to exact opposite conclusion.

The standing committees have the—first of all, the standing committees do have the expertise to address terrorism. We had been focused on the terrorist threat long before the country woke up to terrorism on September 11th, and the standing committees have drafted almost all of the Homeland Security legislation. Several chairmen and ranking members have testified the House needs the standing committee's expertise to address terrorism. Their advice should not be taken lightly for they know their issues better than anyone.

This isn't about turf, it is, in fact, about which committees and what organization can best prepare our country for terrorism.

Members can't be experts on everything. We all know that. And that is why we have in Congress committees. And that type of expertise takes years and years and decades to develop. The Senate recognizes this fact, and it has not changed its existing committee structure.

To use aviation as an example, I can safely say that nobody in the House knows more about aviation or aviation security than our subcommittee and its members. Just between the members that we have on the committee now, I will bet we have close to 50 years experience with aviation issues, not to mention the expertise of a staff that has dealt with these issues and actually drafting most of the legislation that deals with terrorist threat in aviation and transportation.

It should be no surprise that a thorough understanding of the aviation system is required to produce effective aviation security legislation. The aviation system is based on a careful balance of highly complex regulations, procedures, infrastructure, engineering. And this system in fact has produced the world's safest aviation industry. Preserving that balance is impossible without the expertise that comes from working on these issues for years.

And I tell you, I have been on that subcommittee for 12 years, I have had the honor to serve for 4 years as the Chair. I served under Mr. Oberstar when he chaired that subcommittee. And we

may or not always agree, Mr. Oberstar and myself, but I am telling you that we know these subjects unlike anyone else in the House, and you lose that expertise if you move this jurisdiction away.

The problem has never been a lack of focus or interest by the standing committees. Rather, the missing ingredient was a national consensus that terrorism should be a top priority. Congress as a whole reflected the national will and has been unable to make the tough choices terrorism required. And that, we know, is a part of our history, unfortunately, today.

9/11 changed that, and within days or a few weeks the standing committees had legislation ready. Back in 1990, we mandated background checks for aviation personnel, began deploying bomb detection devices at our airport; we built FEMA, which helped New York and Washington respond to 9/11 and much of the rest of the country. We created TSA, fortified cockpit doors, armed pilots, put marshals back in the sky, developed a whole host of comprehensive approaches not only to aviation, but also to transportation security.

We stabilized the aviation industry, passed the Maritime Security Act, and created port security grants.

In a few days, we will introduce legislation that will protect airliners from another threat, and that is one of shoulder-launched fired missiles.

The standing committees have always led the way on terrorism and will continue to do so. Legislative jurisdiction should not under any circumstances be wholly transferred from the standing committees to a permanent Homeland Security Committee. This would severely limit the House's ability to produce effective terrorism legislation.

In closing, there is no substitute for expertise, institutional knowledge, and experience. You need all of that to get results. And the standing committees and their staffs with years and years of expertise again looking at systems rather than—and the whole problem that we face and challenges that we face rather than little parts of it is the type of and depth of knowledge and experience that we should have.

I would like to turn now to Mr. Oberstar, and I am sure he has comments.

PREPARED STATEMENT OF THE HONORABLE DON YOUNG, A REPRESENTATIVE IN CONGRESS, FROM THE STATE OF ALASKA, AND CHAIRMAN, COMMITTE ON TRANSPORTATION AND INFRASTRUCTURE

Mr. Chairman and Members of the Committee, thank you for the opportunity to share my views about the future of the Select Homeland Security Committee with you.

Some have argued that a separate standing committee, focused solely on homeland security, is necessary for the House to perform its oversight role on the new Department of Homeland Security. This assumes that the standing committees aren't up to this important task; that somehow the standing committees are either incapable or uninterested in oversight and producing effective homeland security legislation. t also presumes that a new committee, with little subject matter expertise or institutional knowledge can produce better legislation than the standing committees.

This argument is flawed, and the evidence points to the exact opposite conclusion. An fact, only the standing committees have the expertise and institutional knowledge necessary to address terrorism. Other than the Homeland Security Act and its technical corrections bill, the standing committees have drafted every single piece of homeland security legislation. And we were focused on the terrorist threat long before the country woke up to terrorism on 9/11.

The standing committees have always led the way on terrorism, and they still do. The Senate recognizes this fact, and has not changed its existing committee structure.

As most of you know, I did not believe a Homeland Security Committee was necessary for the House to address the terrorist threat last year, and not much has happened since then to change my mind.

Homeland security is an important issue and terrorism is a serious threat, but the standing committees are best prepared to address these threats. The standing committees have the Member expertise, institutional knowledge, and a proven track record of homeland security legislation.

Member expertise and institutional knowledge are absolutely essential to producing effective legislation. Members can't be experts on everything. That's why we have committees. And that type of expertise takes years and even decades to develop.

The homeland security role of the agencies that make up the department is not a separate and distinct function from their traditional missions; rather, it can only be effectively accomplished within the context of those missions.

It should be no surprise that a thorough understanding of the aviation system is required to produce effective aviation security legislation, or that one needs to understand the pharmaceutical industry and our health care system to draft an effective bioterrorism bill. Only members with a thorough understanding of these traditional missions will be able to craft effective legislation that addresses the homeland security aspect of these agencies.

To use aviation as an example, I can safely say that nobody in the House knows more about aviation. . .. or aviation security, than Subcommittee Chairman Mica and Ranking Member Oberstar. Collectively those two Members have close to fifty years experience with aviation.

The U.S. aviation system is based on a careful balance of highly complex rules, regulations, procedures, infrastructure, and engineering. This system has produced the world's safest aviation industry. Preserving that balance is impossible without the expertise that comes from having dealt with these issues for many years, as the members of the Transportation Committee have.

Aviation safety and security are closely linked, especially in such areas as air traffic control, aircraft maintenance, missile threats, passenger control, and aircraft operating procedures. Even minor policy changes can have wide-ranging negative impacts on other aspects of aviation.

The point I'm making with aviation is true in other areas as well. The agencies' traditional and homeland security missions are intertwined, and you need to understand one to effectively address the other.

While you may be able to draw a distinction between these missions in the House Rules, it doesn't exist on a Coast Guard cutter patrolling our coasts or on the street with first responders. In the real world, those missions are linked, and our policy in Washington should reflect that reality.

In addition to having the expertise to address terrorism, the standing committees have focused on this threat for years.

At this point, I would like to read part of a statement that was given by a colleague of mine on the House floor. The issue at hand was preparing our first responders for a terrorist attack.

"The pictures of that awful day are a sobering reminder of the new threats of evil that Americans face, but they also remind us of how grossly unprepared our Nation was and still is to respond to such a disaster.

"This bill will not prevent a terrorist attack. However, it will help us prepare for the inevitable and ensure that our emergency personnel have the right training and equipment to save lives."

Chairwoman Tillie Fowler of our Emergency Management Subcommittee made those remarks on July 25th, 2000. The House passed the Preparedness Against Terrorism Act that day, by unanimous voice vote, but it never made it out of the Senate.

The standing committees have a long history of focusing on terrorism and crafting legislation to address it. The problem has never been a lack of focus or interest by the standing committees; rather, the missing ingredient was a national consensus that terrorism should be a top priority. And Congress, as a whole, reflected the national will and was unable to commit sufficient resources or make the tough policy choices terrorism required.

9/11 changed that, and within days or a few weeks the standing committees had legislation ready. This was possible because the standing committees had worked on these issues for years. They knew what the major problems were and how to solve them.

The Transportation Committee has a long and proven record of protecting the nation from terrorism. For your review, I have included a list of bills produced by our committee with my testimony. They range from the Aviation Security Act of 1989 to the Coast Guard and Maritime Transportation Authorization Act of 2004.

Similarly, the other standing committees have produced a long list of bills protecting the country from terrorism.

In short, the standing committees have the expertise and institutional knowledge, they're focused on the threat, and they have moved virtually all of the homeland security legislation.

If the Rules Committee, the Leadership, and the House ultimately decide to have a permanent Homeland Security Committee, then so be it. It won't be the first time they've ignored my advice, but please don't ignore the expertise of the standing committees. The House and the nation need them to meet the challenge of terrorism.

If the House must have a permanent committee, then a select committee with oversight jurisdiction could focus the House's oversight over the Department without diminishing its ability to produce effective legislation.

If the House creates a permanent committee with legislative jurisdiction, then it must preserve the standing committees' jurisdiction to ensure their expertise is utilized in drafting homeland security legislation.

While not ideal, shared jurisdiction is quite common and manageable in the House. The Parliamentarian has already testified that the Speaker has all the authority he needs to manage overlapping jurisdiction. In this case, the negative procedural aspects of shared jurisdiction are far outweighed by the substantive requirement to produce effective legislation.

Likewise, the perceived burden of having DHS report to multiple committees is far outweighed by the need for congressional expertise and effective legislation. Most departments report to multiple committees without impact on their ability to fulfill their missions.

Exclusive legislative jurisdiction should not be transferred from the standing committees to a permanent homeland security committee. This could severely limit the House's ability to effectively address terrorism through legislation.

In closing, let me say that addressing terrorism is first and foremost a question of substance, not process. We must have the right Members and committees working on the problem, and then make sure the process enables them to get the job done.

There is no substitute for expertise, institutional knowledge, and experience. You need them to get results, and the standing committees are the only place where that depth of knowledge and experience exists.

The stakes are too high to cast them aside.

Thank you.

The following is a list of major terrorism legislation produced by the Committee on Transportation and Infrastructure:

The Aviation Security Act of 1989
The Aviation Security Act of 1990
The Railroad and Transit Sabotage Prevention Act of 1995
The Federal Protective Service Reform Act of 1999
The Preparedness Against Terrorism Act of 2000
The Airport Security Improvement Act of 2000
The Air Transportation Safety and System Stabilization Act of 2001
The Aviation and Transportation Security Act of 2001
The Arming Pilots Against Terrorism Act of 2002
The Extended Unemployment Assistance Act of 2002
The Federal Property Protection Act of 2002
Title 14 of the Homeland Security Act of 2002
The Maritime Transportation Security Act of 2002
The Dam Safety and Security Act of 2002
The Wastewater Treatment Works Security Act of 2003
Over-the-Road Bus Security and Safety Act of 2003
Title 6 of the Century of Aviation Reauthorization Act of 2003
The Coast Guard and Maritime Transportation Authorization Act of 2004

Mr. DIAZ-BALART. Mr. Oberstar.

**STATEMENT OF THE HONORABLE JAMES OBERSTAR, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MINNESOTA, AND RANKING MEMBER, COMMITTEE ON TRANSPORTATION AND INFRASTRUCUTE**

Mr. OBERSTAR. Thank you, Mr. Chairman. And I thank the Chair of the Aviation Subcommittee, Mr. Mica, for a splendid presentation. Chairman Young and I have concurred in the views just expressed and the views that I will express.

As Chairman Mica said, I spent a great deal of time on aviation issues, and in my role as chair of the Investigations and Oversight Subcommittee held first hearings in the House in closed session, I would say, on aviation security in 1987 and 1988, and in the aftermath of Pan Am 103, at the request of the Bush administration, introduced legislation, created a commission, a Presidential Commission on Aviation Security and Terrorism, on which I served and the ranking member of the full committee at the time, Congressman John Paul Hammersmith of Arkansas and Senators D'Amato and Lautenberg, as well as three public members appointed by the President.

We followed the route of Pan Am 103, we talked to all the international security experts in the European Community and in the UK, and all the way through Scotland Yard to a constable at Lockerbie, and crafted legislation—also from our own national security interests. We crafted legislation that is the basic bill on aviation security that formed this Nation's view of matters, until the major transformation and the aftermath of September 11th.

Regrettably, not all of the recommendations of the Commission were fully enforced and carried through by the various agencies of the Department of Transportation.

The point is, it began with our committee, Aviation Security. And when September 11th struck, as Chairman Mica said, we took this whole issue to a much higher level where most of us members of the Pan Am 103 Commission wanted to go but couldn't because of various institutional resistance.

The point is, you bring to bear the experience, the history, the knowledge, the understanding of multiplicity of security issues to bear on the issue before you as a member of the standing committee.

In the aftermath of the aviation security bill, we worked together on our committee to craft the maritime security, which was called the port security bill. And we took many of the experiences from aviation and applied them to ports. Again, what was missing from the port security bill was a mechanism for funding the port security initiatives that were necessary, unlike aviation where we do have an aviation security fee that provides a steady stream of funding. Again, had our committee's experience and recommendations been followed, there would have been a port security fee applied and a revenue stream for ports to carry through.

So, now your select committee is in the process of deciding where to go in the future; and with Chairman Mica, I urge you to consider this wealth of expertise and continuity of service and understanding of substantive issues in security and the interrelationship between safety matters and security. We drew considerably on aviation safety in crafting aviation security, layering redundancy,

backup systems in order to develop a sound safety and security system.

Our committee also has jurisdiction over the Coast Guard. The Coast Guard has been absorbed into the Department of Homeland Security despite the objections of Chairman Young and myself. We met with the President, appealed to him to keep the Coast Guard out of the Department of Homeland Security. Why? Because Coast Guard has responsibilities not directly related to security: Commercial safety inspections, licensing of mariners, registering vessels, maintaining buoys, navigation aids, recreation boating recalls, and search and rescue functions. We pointed out, who is going to delineate for the Coast Guard when a search and rescue mission morphs into or becomes diverted to a security mission? That is a matter that our committee needs to understand, needs to deal with, because we under the interrelationships. We have the staff, we have the institutional memory, we have the understanding to deal with those.

FEMA is another one. FEMA deals with disasters of all kinds, both natural disasters and manmade such as September 11th. We felt that FEMA should be kept separate, but if not, at least our committee's jurisdiction should prevail both with Coast Guard and with FEMA. We believe that we understand the interrelationship of various functions of the agencies of which we have jurisdiction and how best to coordinate security and safety and other mainline missions of the various agencies that have been subsumed into Homeland Security.

Some security measures in aviation will have an adverse impact on travel times. Secretary Mineta has said he wants world class security with world class service. How to get there? I think our committee understands how to do that. We have contributed a great deal of time to the deliberation on these issues. And while we might start out with differing viewpoints, we generally come to a consensus position on the underlying legislation and then work to ensure that it is well carried out.

So I urge this committee to keep in mind this body of expertise, that not only ours but other authorizing committees, standing committees have in matters such as the one you are considering and, more importantly, the interrelationship with other functions of these departments and agencies that are not security but may have relationship to security, and let us continue to attend to the needs and craft the legislation and shape the future missions of these agencies in a way that will be supportive of security but also respectful of the historic functions of say, Coast Guard, aviation, FEMA, and our maritime system. Thank you, Mr. Chairman.

Mr. DIAZ-BALART. Thank you both.

Mr. OBERSTAR. And Ranking Member Slaughter.

PREPARED STATEMENT OF THE HONORABLE JAMES L. OBERSTAR

Mr. Chairman, Ranking Member Slaughter, and Members of the Committee, I'm pleased to have this opportunity to discuss with you how we should organize our Committee structure to deal with the new Department of Homeland Security (the Department).

During my 29 years in Congress I have given high priority to security, particularly the security of our transportation system.

In 1988, after the terrorist attack on Pam Am Flight 103, I authored legislation creating the President's Commission on Aviation Security and Terrorism. I was priv-

ileged to serve as a Member of that Commission. When the Commission completed its work, I introduced legislation embodying its recommendations, and these recommendations were the basis for the landmark Aviation Security Improvement Act of 1990.

Following the tragic events of Sept. 11, 2001, I was actively involved in developing the Aviation & Transportation Security Act of 2001, which transferred security responsibilities from the airlines and private contractors to the Federal Government. I was actively involved in developing the Maritime Transportation Security Act of 2002, which established a new security system for vessels and facilities along the navigatable waters of the United States.

Today's hearing focuses on the future role of the Select Committee on Homeland Security. Your Committee provided badly needed oversight as the new Department of Homeland Security began the difficult task of moving and integrating scores of government departments, with more than 180,000 employees. The Select Committee did a commendable job of overseeing the *process* of organizing the new Department, but the decisions on *policy* should remain—as it currently does—with the Committees that have the history and expertise in these areas.

Recently, there have been proposals to expand the jurisdiction of the Select Committee, to give it primary jurisdiction over all legislation affecting the Homeland Security Department and all of the agencies incorporated in the Department. I strongly oppose this change because I believe it would undermine our effectiveness in overseeing the Departments and its agencies.

A first difficulty is that the agencies making up the Department have many responsibilities that are not related to security. I will focus on agencies within the Transportation and Infrastructure Committee's jurisdiction; I expect that the other Committees with jurisdiction over Homeland Security issues will do the same for their agencies.

The Transportation and Infrastructure Committee (T&I Committee) has legislative responsibility over several agencies with both security and non-security functions that have been transferred to the Department of Homeland Security. For example, the Coast Guard has numerous responsibilities that are not directly related to security. The Coast Guard conducts commercial safety inspections; it licenses mariners; it has a system for registering vessels; it establishes and maintains buoys and other navigation aids, and it has responsibility for recreation boating recalls. The issues involving these responsibilities are complex, having evolved over many years. The T&I Committee has the Member expertise, the staff and the institutional memory to deal with these issues. I believe that the quality of Congressional oversight and legislation on these issues would be diminished if a new Committee was simply given responsibilities for all these issues. It could take years for the new Committee to develop the institutional background and expertise that currently resides in our Committee.

The T&I Committee also has legislative responsibility over the Federal Emergency Management Agency (FEMA), which was transferred to the Department of Homeland Security and split in two. FEMA has the responsibility to prepare for and respond to disasters of all kinds—both natural, such as hurricanes and floods, and manmade. Since FEMA's creation in 1979, the Transportation Committee has prepared and reported numerous pieces of legislation designed to further FEMA's all-hazards mission. I am concerned that this history and experience would be lost if oversight of FEMA is permanently transferred to the Select Committee, and that, in a Committee focused on terrorism and security issues, FEMA's traditional, and critically important, mission of preparing for and responding to natural disasters may not receive the attention and oversight that they deserve.

Our Committee is also the best equipped to deal with security issues affecting transportation. As I have already mentioned, our Committee developed the landmark Aviation Security Improvement Act of 1990 (P.L. 101–604), which mandated background checks for airline and airport employees and the deployment of bomb detection equipment for baggage at our nation's airports. During the 1990's, our Committee continued to respond to the changing security needs through oversight and legislation. In the aftermath of the September 11, 2001, the T&I Committee drafted and marked-up the Aviation and Transportation Security Act of 2001 (ATSA). ATSA established a new Transportation Security Administration (TSA), Federalized the screening workforce, and required the screening of all checked baggage to protect against terrorist threats.

While TSA was transferred to the newly created Department of Homeland Security, our Committee retained its jurisdiction over TSA's transportation security activities. Since September 11th, our Aviation Subcommittee has held 16 hearings focusing on all aspects of security, including the deployment and use of security technology, general aviation, checked baggage screening systems, the computer assisted

passenger pre-screening system, flight deck officer program, defense systems against missiles, and the financial impact of security on the aviation industry. Clearly our Committee has the expertise and the commitment to deal with aviation and other transportation related security. It would take a new Committee years to develop the background and expertise necessary to effectively deal with these issues.

Moreover, it is important to have a single Committee balance the needs of security with those of safety, and the efficiency of our transportation system. The safety and efficiency of our transportation system are the responsibility of the Department of Transportation and the Committee on Transportation and Infrastructure oversees these programs.

To illustrate these interrelationships, some aviation security decisions have safety implications, and there is a need to balance possible security benefits against possible safety risks. For example, there may be safety risks if pilots are armed and fire shots which damage the aircraft. Similarly, if equipment is added to the body of aircraft to counteract missiles fired from the ground there may be an effect on aerodynamics and safety.

There is also a need to balance security needs with the continued viability of our transportation system. Some security measures will add greatly to the time required for passengers to travel, or limit the ability of our transportation system to provide for the efficient movement of cargo. These needs must be balanced with security benefits and weighed against the costs of benefits and alternative measures. Aviation is an $800 billion sector of the U.S. national economy and the cornerstone upon which all other sectors rely to make economic progress. The opportunity, both in the U.S. and abroad, to travel for business has fostered a tremendous growth in electronics and aircraft manufacturing, communications, and tourism, which supports a $1.6 billion sector worldwide.

Much of our economy depends on a "just in time" delivery system using all modes of transportation. If security measures undermine the effectiveness of this system, factory lines may shut down and retail stores may find it difficult to obtain the goods that Americans need in their daily lives. The Transportation and Infrastructure Committee has a long history of dealing with the tradeoffs between safety, security and economics. Again, I am concerned that a new Committee would lack the background and expertise to most effectively deal with these issues, and that we could lose the expertise that has developed over the years, or in may case, the nearly three decades of working with these issues. It is not enough to say that Members with particular areas of expertise will have an opportunity to be heard on these issues. The most effective way to influence policy is to be part of the debate and discussion in the early stages of policy formation; simply voting yes or no when legislation makes it to the House floor is generally not sufficient participation to craft policy.

Supporters of consolidating all jurisdiction over the Department in one congressional committee argue that it is inefficient and distracting for the Department to have to deal with several committees. These arguments ignore the fact that the system of Committees we have established in the House is not based on an exclusive one to one relationship between each Committee and a cabinet agency; rather our Committee system is based on subject matter such as, science, small business, government reform, international relations, or infrastructure. These issues are spread over a number of different cabinet agencies.

In short, we have developed a system in which each cabinet agency is within the jurisdiction of several congressional committees. I have attached a chart to my testimony that lists which House Committees oversee the different cabinet agencies. It indicates that most departments are responsible for reporting to at least 10 congressional committees. A number of departments have different committees overseeing major portions of their responsibilities. Keeping the status quo for the Department of Homeland Security would not place the Department in a different position than other cabinet agencies.

In conclusion, Mr. Chairman, Ms. Slaughter and Members of the Subcommittee, I strongly believe that congressional role in security will be most effective if we continue the Committee jurisdiction which is now in place.

**AGENCY:**
**HOUSE COMMITTEES HAVING JURISDICTION:**

**DEPARTMENT OF AGRICULTURE**
- **Agriculture Committee**
- **Resources Committee**
- Government Reform Committee
- Financial Services Committee
- International Relations Committee

- Small Business Committee
- Select Com. On Homeland Security
- Budget Committee
- Appropriations Committee

**DEPARTMENT OF COMMERCE**
- **Energy & Commerce Committee**
- **Financial Services Committee**
- Ways & Means Committee
- Science Committee
- Resources Committee
- International Relations Committee
- Government Reform Committee
- Judiciary Committee
- Transportation & Infrastructure Com.
- Budget Committee
- Appropriations Committee

**DEPARTMENT OF DEFENSE**
- **Armed Services Committee**
- **Veterans Affairs Committee**
- Judiciary Committee
- Education & the Workforce Committee
- Financial Services Committee
- Government Reform Committee
- Intelligence Committee
- International Relations Committee
- Transportation & Infrastructure Com.
- Budget Committee
- Appropriations Committee

**DEPARTMENT OF EDUCATION**
- **Education & the Workforce Committee**
- **Financial Services Committee**
- Ways & Means Committee
- Government Reform Committee
- Agriculture Committee
- Resources Committee
- Science Committee
- House Administration Committee
- Budget Committee
- Appropriations Committee

**DEPARTMENT OF ENERGY**
- **Energy & Commerce Committee**
- **Science Committee**
- Resources Committee
- Government Reform Committee
- Small Business Committee
- Ways & Means Committee
- Financial Services Committee
- International Relations Committee
- Transportation & Infrastructure Com.
- Budget Committee
- Appropriations Committee

**DEPARTMENT OF HEALTH & HUMAN SERVICES**
- **Energy & Commerce Committee**
- **Ways & Means Committee**
- Government Reform Committee
- Financial Services Committee
- Energy & Commerce Committee
- Science Committee
- Resources Committee
- Judiciary Committee
- Select Com. on Homeland Security
- Budget Committee
- Appropriations Committee

**DEPARTMENT OF HOMELAND SECURITY**
- **Select Com. On Homeland Security**

- **Judiciary Committee**
- Transportation & Infrastructure Com.
- Energy & Commerce Committee
- Armed Services Committee
- International Relations Committee
- Science Committee
- Financial Services Committee
- Government Reform Committee
- Education & the Workforce Committee
- Intelligence Committee
- Budget Committee
- Appropriations Committee

**DEPARTMENT OF HOUSE AND URBAN DEVELOPMENT**
- **Financial Services Committee**
- **Small Business Committee**
- Government Reform Committee
- Transportation & Infrastructure Com.
- Agriculture Committee
- Judiciary Committee
- Budget Committee
- Appropriations Committee

**DEPARTMENT OF INTERIOR**
- **Resources Committee**
- **Science Committee**
- Agriculture Committee
- Energy & Commerce Committee
- Resources Committee
- Transportation & Infrastructure Com.
- Government Reform Committee
- Justice Committee
- Budget Committee
- Appropriations Committee

**DEPARTMENT OF LABOR**
- **Education & the Workforce Committee**
- **Ways & Means Committee**
- Small Business Committee
- Financial Services Committee
- International Relations Committee
- Veterans Committee
- Judiciary Committee
- Government Reform Committee
- Resources Committee
- Transportation & Infrastructure Com.
- Budget Committee
-
Appropriations Committee

**DEPARTMENT OF JUSTICE**
- **Judiciary Committee**
- **Select Com. On Homeland Security**
- **Energy & Commerce Committee**
- Financial Services Committee
- Small Business Committee
- Ways & Means Committee
- Education & the Workforce Committee
- Resources Committee
- Government Reform Committee
- Science Committee
- Transportation & Infrastructure Com.
- Agriculture Committee
- Intelligence Committee
- International Relations Committee
- Budget Committee
- Appropriations Committee

**DEPARTMENT OF STATE**
- **International Relations**

- **Financial Services Committee**
- **Intelligence Committee**
- Armed Services Committee
- Resources Committee
- Science Committee
- Judiciary Committee
- Transportation & Infrastructure Com.
- Energy & Commerce Committee
- Small Business Committee
- Ways & Means Committee
- Government Reform Committee
- Select Com. on Homeland Security
- Budget Committee
- Appropriations Committee

**DEPARTMENT OF TRANSPORTATION**
- **Transportation & Infrastructure Com.**
- **Select Com. on Homeland Security**
- **Science Committee**
- Small Business Committee
- Government Reform Committee
- International Relations Committee
- Education & Labor Committee
- Ways & Means Committee
- Judiciary Committee
- Resources Committee
- Armed Services Committee
- Budget Committee
- Appropriations Committee

**DEPARTMENT OF TREASURY**
- **Financial Services Committee**
- **Ways & Means Committee**
- Government Reform Committee
- Agriculture Committee
- Education & the Workforce Committee
- Intelligence Committee
- Small Business Committee
- Transportation & Infrastructure Com.
- Veteran's Affairs Committee
- International Relations Committee
- Judiciary Committee
- Select Com. on Homeland Security
- Budget Committee
- Appropriations Committee

**DEPARTMENT OF VETERAN's ADMINISTRATION**
- **Veteran's Affairs Committee**
- **Armed Services Committee**
- Financial Services Committee
- Government Reform Committee
- Budget Committee
- Appropriations Committee

* Resources used: *Congressional Quarterly's Washington Information Directory,* Agencies' Congressional Testimony and phone calls to Agencies' Congressional Affairs offices.

Mr. DIAZ-BALART. Mr. Mica, you made emphasis on aviation, of which you both have tremendous expertise in that area. The attacks of September 11th, 2001 revealed, among other things, a lack of integration between Federal agencies involved with aviation security and those involved with border and immigration issues. Could you educate us on what your committee has done to address the integration of aviation security with other relevant Homeland Security missions?

Mr. MICA. Well, that is a good example, Mr. Chairman.

The Homeland Security agency that—our department we created really doesn't do much to protect us. In fact, I think it has bogged the process down for the most part. It is at best an ineffective cumbersome additional layer of bureaucracy.

Let me give you a good example. What say do you have over the State Department? None. Who issued the visas for the terrorists? The State Department. Who got the information—who should have had the information about bad guys and gotten it to the State Department employees who were issuing the visas? That would be the CIA. You don't have any say over the CIA, the State Department; you dragged in Secret Service, but you don't have the FBI included.

What is the purpose of this Homeland Security committee? Shouldn't—and the Department? Shouldn't it be, first of all, prevention? And then, secondly, it should be coordination of all of the Homeland Security things that protect us. And I submit it doesn't do it.

Just in the aviation area, it has created another layer of bureaucracy. I haven't been able to get a damned answer out of anybody in Homeland Security since they took over. In fact, now you have this game of Under Secretary or assistants to Tom Ridge, and then you have Ridge up here. Try to get something done with TSA, and it is almost impossible to get anyone to move because of the new layers of bureaucracy that we go through.

So I am telling you that rather than improve the situation, I think it has complicated the situation and we are less safe as a result of the new bureaucracy and impediments that have been in place.

If the committee is looking for something to do, look at coordinating some of these government activities.

Mr. OBERSTAR. Let me supplement, if I may, the Chairman's response in two points. In the report of the Presidential Commission on Aviation Security and Terrorism, the Pan Am 103 Commission, we recommended the establishment within the Executive Branch of a central entity whose job would be to coordinate intelligence gathered at home and abroad, and to disseminate that intelligence on aviation security matters to all relevant agencies. We also proposed the establishment within the Department of Transportation of an Assistant Secretariat for Aviation Security. That latter was objected to by the administration, so Mr. Hammersmith and I agreed on an advisor to the Secretary, an assistant to the Secretary For Aviation Security.

Second, and we were way ahead. Had that recommendation been implemented, there would have been coordination of information from all of the relevant security and intelligence agencies in advance of September 11th, and the ability to evaluate and disseminate information properly.

Secondly, in the transportation security bill that we wrote in our committee, we required at the—because that was our jurisdiction, Department of Transportation, coordination among all the modes of transportation for security purposes. It would be up to the—we anticipated it would be up to the, if there were a Department of Security, to coordinate with the intelligence agencies. But we foresaw that need, and we crafted the language to require coordination within the Department of all the modes on all aspects of transpor-

tation security so that there would be cross-fertilizing, if you will, one another.

Mr. MICA. Might I just add something here. We crafted in the original TSA bill, we worked on this together, exactly what Mr. Oberstar said. We saw that you needed a coordination of information about bad guys and intelligence. That is one thing that was lacking. That was in the TSA bill. When you created the Homeland Security bill, it was transferred over there. So what we started was transferred over there. They have since created, I guess, an agency to do something on that. We had them in last week. They still don't have a watchlist, they still do not have a coordinated list that we asked for when we created the original TSA entity. And who is in charge of that? Are you in charge? Is Homeland Security in charge of that?

You see, what we have created hasn't gotten us to where we should have been a year ago. It actually delayed the process, and now it is sort que pasa as far as who is responsible.

Mr. DIAZ-BALART. Mrs. Slaughter.

Ms. SLAUGHTER. I just have one question I would like to ask of both of you. If the legislative authority for DHS is given to a committee, standing committee, how would you deal with the authorization of, let us say, Coast Guard and FEMA which has both the DHS responsibilities as well as domestic responsibilities of other types?

Mr. MICA. Again, I think you need to go back and look at the core of how we created Homeland Security. It should be for prevention, it should be for coordination. Coordination across the board. And then for oversight. I think those are the important missions. Leave the standing jurisdiction with the committees and their expertise, and your folks are—your folk's mission or the folks on this committee, if we have a committee, a select committee or whatever it is, standing committee, is a coordinating effort to see that things are moving forward, or at least some better oversight of what has been created and pushed into Homeland Security.

Mr. OBERSTAR. I would supplement that comment and in support of it by saying that not all cabinet departments have a single authorizing committee over all the jurisdiction within that department. For example, within DOT in the National Highway Traffic Safety Administration where we do the roadway rules for road physical safety matters, the Energy and Commerce Committee has jurisdiction over the vehicle that goes on that roadway. And not all cabinet agencies have a single authorization bill for the entire department. We do a separate authorization within our Committee for FAA, a separate one for the Federal Motor Carrier Safety Administration, we are doing a separate authorization for the Federal Highway and Transit Administration. We do a separate authorization bill for pipeline safety and so on. I need not cite all of them.

So in some cases there, as in the case of highway safety on vehicle side, we share that with the Energy and Commerce Committee with whom we work, we share some aspects of pipeline safety with the Energy and Commerce Committee with whom we work those matters out. So I think leaving the authorization process in the hands of the standing committees has worked very well. It also provides multiplicity of oversight.

Ms. SLAUGHTER. Thank you both.

Mr. DIAZ-BALART. Chairman Cox.

Mr. COX. Thank you.

I want to congratulate both of you for giving very cogent testimony, and thank you for being here and for the work that went into preparing the testimony for the rules subcommittee. As you know, the Chairman of the subcommittee has done a lot of work over a period of a year and a half really examining this question from a big picture standpoint. And the contribution that you have made today I think is very, very helpful. And I agree with much of it.

In particular, Chairman Mica, I agree with your dichotomy between the functional responsibility of the standing committees that have long existed in the House to deal with all the pre-9/11 real world, and the industries that are allocated committee by committee within their respective jurisdictions. We will hear from the chairman of the Ways and Means Committee shortly that he supports the creation of a permanent committee, provided that the jurisdiction of Ways and Means with respect to Customs, specifically the Customs missions as they relate to trade and revenue is preserved. And that makes sense if you have got a focus on Homeland Security, because Homeland Security is not about trade, except with a really expansive and I think dangerous definition.

It is not about revenue. And that is what Ways and Means is all about. We may have a more difficult nut to crack with aviation simply because the mode of attack on 9/11 was airplanes, and as a result Congress rather rapidly passed what we thought was remedial legislation. But it may not provide the model for what we want to do everywhere. I mean, we may have learned some things about our response that we wish we could improve upon. And I would hope that it would be the responsibility, the continuing responsibility of the Transportation Infrastructure Committee to be responsible for those things.

Specifically, I would hope that even though we deregulated aviation in 1978, as you know, it is heavily regulated, and I would hope it would be the continuing responsibility of the Committee on Transportation and Infrastructure to be responsible for regulation of that industry. I would hope that it would be the continuing responsibility of the Committee on Energy and Commerce to look after regulation of the nuclear industry and the chemical industry, and so on, all the way through the Congress, because that expertise has been developed over a long period of time and because it involves so much more than Homeland Security.

So your formula is one that at least insofar as I understand your presentation of it agrees with mine, and that is, that you have got a Department of Homeland Security that is focused on prevention, protection, and response, and is not going to become the regulator of every aspect of American life; it is not going to become the regulator of every aspect of American commerce. But, as I have said, before other panels have testified today, I think there is a risk the Department could morph into those things.

And that is one of the reasons that we want very, very strenuous oversight from the Congress that created it so recently, because if the Department, which surely is going to exist indefinitely, if the

new cabinet department history suggests they don't go away, is going to grow. And if it is going to grow and last indefinitely, then it needs to stay focused, and it needs to stay focused on protecting Americans and our security and not get into all these other areas. And we will lose our competitiveness in all these industries if we regulate them not with a view to the big picture, which includes competition of global commerce, job creation, investment, in the case of transportation safety and all these other things.

If we have on the blinders of security and that is all, and then we become—we, the Department of Homeland Security in this case, become the regulators of all these industries, then the regulation will suffer, the industries will suffer, the country will suffer, and it won't work. So I think that dichotomy makes a great deal of sense. And it is just as important that we circumscribe the mission of the Department of Homeland Security as it is that we respect the traditional jurisdictions of the committees. And I think they go hand in hand.

But I would appreciate any further comment you want to make on that. I am just trying to, I guess, express my gratitude for and agreement with much of what you said.

Mr. OBERSTAR. If the Chairman permit. Chairman Young was particularly insistent on addressing vigorously the Coast Guard matter, and it falls in line with what you have said, Chairman Cox. I would call your attention to the authorizing language for the U.S. Coast Guard. It is what I call an itinerant agency. It started out as the revenue cutter service in 1789, the oldest agency of the Federal Government. But the authorizing language says or refers to the agent in conferring power: The Secretary of the Department in which the Coast Guard resides. Every other authorization refers to the Secretary.

FAA, we mean by that, the Secretary of Transportation. But the Coast Guard has moved around so many times. But when it has moved from an independent entity to the Naval Department, and then to the War Department and then to the Commerce Department, and to the Treasury Department, and then back to Commerce and then to the Department of Transportation, it has moved intact. Jurisdiction over its functions was not shared among committees of either the House or the Senate. And that is what Chairman Young wants to see, is this jurisdiction remains intact and as you suggested. So we can address all these other responsibilities of the Coast Guard in the context of security and weave security into the total role of the Coast Guard.

Mr. MICA. If I may. There are some functional responsibilities that Homeland Security, the Department has inherited that they are responsible for, and that is important and I think your committee should look at some of those things.

Let me say that I have great concern about the Homeland Security Committee and also the Department we created. It has huge gaps in it. For example, let me give you just two practical examples that I have worked on this week. Biometric standards. And Ms. Slaughter talked—we were talking about, you know, what happened before September 11th. We still do not have an acceptable biometrics standard that is acceptable by all agencies. I have 328 agencies that have various fire—carrying firearms on airplanes. I

have no biometric identification standard. What is interesting, this week I found out State Department through their Visit U.S.A., is developing a biometric standard to be put in passports and visas.

Who the hell is coordinating this stuff? We are 2 years out. We don't have an ID card for people who work at an airport because nobody will make or coordinate a decision. And I have got one agency hung out here making those kinds of decision. And I am thinking, well, if they adopt that and it doesn't go with this, somebody needs to be in charge of this stuff, folks.

This morning I had a briefing with the CIA—I can't go into all the details, but we are concerned with the terrorist threat. They blow some more planes out of the sky. You ain't seen nothing compared to what happened at the economy on 9/11. And this is the kind of threat that we deal with. I don't deal as much with it as much with Mr. Oberstar as I do with the Ranking Member of the Aviation Subcommittee, but we talk about this all the time.

As of this morning, when I talked to CIA, FBI still is out of the loop on a lot of the terrorist threat. I can't go into specifics here. Who the hell is coordinating this stuff? And I am just chairman of aviation, so I am looking at a little bit, and this one doesn't know what the other one is still doing.

So you have this committee, if we have a select committee on a permanent committee, it has some important responsibilities of coordinating Federal agencies, some that were left out here, that we pieced this together. So you have an important responsibility. And then coordinating some of these things among—and there is turf among the committees and the jurisdictions that they have—in seeing that this all comes together. Without being expertise, putting together expertise that each committee, standing committee has and all of that.

So coordination is important. It is lacking. And your jurisdiction, I am here to tell you, you are not looking at enough of the picture and Homeland Security I don't think is. Sorry. Frustrating.

Mr. DIAZ-BALART. Further questions?

Mr. COX. I appreciate that, and my red light is on. Thank you, Mr. Chairman.

Mr. DIAZ-BALART. Well, Mr. Mica has made a series of extraordinarily important points that are very helpful to us.

Ms. Lofgren Thank you both for—

Ms. SLAUGHTER. Just one other question before you go.

Mr. DIAZ-BALART. Yes.

Ms. SLAUGHTER. Because I agree with you that the Agency is not working well. We don't have a threat assessment after all this time, and they are waiting for each State to make them own and go over them to make sure they are accurate. So it could be a year or more.

But the one thing that is most troubling, I just got a notice that the governor of my State has managed to get some money from somewhere, 500,000 to give one of my small counties on the border that protects one of the—the only power system in the United States. And yet I think in your committee we can't get the grant money out for first responders. So can we make a complaint about that as well, and tell me where in the world that money is and what we plan to do about that?

Mr. OBERSTAR. That goes back to my comments about FEMA, that I didn't think it was an appropriate step to take FEMA into the Department of Homeland Security because it would be buried in with a whole group of other agencies and its response to natural disasters confused without any clear delineation lines a responsibility for counterterrorism actions. And the funding has indeed gotten merged with the other programs. And I think if you look at the total funding for first responders, particularly firefighters, you will find that funding level is less than when we started because of the fundability of dollars within that department, and it has been moved around.

Ms. SLAUGHTER. Well, FEMA responds to national emergency and they pay money out, but for some reason, the money to these first responders, which has been paid out by them and that they longingly wait for reimbursement just doesn't come. And we were wondering if you could, and your committee seems to be where it is bottled up, what you can do about it.

Mr. OBERSTAR. We can certainly work together with the majority to inquire into that matter.

Ms. SLAUGHTER. I can promise you that I don't think any of us go home to find anything more disconcerting than the fact that budgets are broken or the money that they have spent is more than they can afford and have no way to cover it. And we just really have to deal with that. That is as frustrating to me as the fact that we have no threat assessment, which makes no sense to me.

Ms. LOFGREN. Would the gentlelady yield for just—I don't have a question. I do think the question you have asked is an important one, and obviously no one committee has all the responsibility as collectively the government has fallen short and we need to fix it. I just wanted to note, if I could indulge the committee, that I have another committee meeting at 5:00 over in the Capitol that I cannot avoid. And I see the Chairman of my other committee is here, and I want to assure the Chairman that I have read every word of his testimony and beg his forgiveness for having to leave.

Thank you.

Mr. DIAZ-BALART. Thank you. Thank you both very much.

It is our privilege to welcome the chairman of the Committee on the Judiciary, Mr. Sensenbrenner.

Mr. Chairman, welcome. We look forward to your testimony. Of course your entire testimony will be part of the record, and we look forward to studying it. If you could perhaps, as we have been asking witnesses, to summarize your testimony in 5 minutes.

## STATEMENT OF THE HONORABLE JAMES SENSENBRENNER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WISCONSIN, AND CHAIRMAN, COMMITTEE ON THE JUDICIARY

Mr. SENSENBRENNER. I am very happy to summarize my testimony. But first let me explain the props that are in front of me.

This is the work product of the Judiciary Committee since September 11th relative to Homeland Security Activities and other matters within the jurisdiction of the committee. We have this stack of hearings, this stack of legislative reports on bills that have become law, and this stack of oversight reports that were either

done directly by the committee, by the General Accounting Office, or by the inspector generals of various agencies.

The Judiciary Committee, I think, has an unprecedented work product in dealing with these issues that are within our jurisdiction.

I am pleased to appear before the Subcommittee on Rules to testify on the topic you have under discussion. I believe that, given our track record—and you see the paper there, and a lot of hours were put into developing that paper—that the Judiciary Committee should retain its jurisdiction over all the matters it currently it has. While I am not opposed to a Committee on Homeland Security as such, I believe that the proponents of such a committee have the burden of proving that a distinct Homeland Security Committee is an overall benefit to Congress and to our country. To date, I do not believe that burden has been met.

The Committee on the Judiciary has actively participated in the response to the 9/11 attacks. This is entirely appropriate because our jurisdiction includes "the judiciary and judicial proceedings, civil and criminal," "espionage and counterfeiting," "civil liberties," "immigration and naturalization," and "subversive activities affecting the internal security of the United States."

I believe that the Judiciary Committee's record demonstrates that we are best able to meet that challenge in those areas that have been traditionally within our jurisdiction. We have the expertise, we have the staff, we have been active, and we have produced results.

The creation of the Department of Homeland Security touches on the jurisdiction of the committee on the judiciary in three principal areas: Law enforcement agencies at DHS, Federal and State law enforcement training, and immigration. The committee has unique expertise in each of these areas, and it should continue to exercise jurisdiction over them.

Mr. SENSENBRENNER. The first aspect of the Homeland Security Act that implicates the jurisdiction of the Committee on the Judiciary is the transfer of law enforcement agencies and their training activities. The HSA transferred several criminal and law enforcement agencies to DHS—the Secret Service, the Immigration and Naturalization Service, the Customs Service, the Transportation Security Administration, the Federal Protective Service and the Coast Guard.

The Committee on the Judiciary has general jurisdiction over the Secret Service and the successors to the INS. It has jurisdiction over the successors to the Customs Service, TSA, FPS, and the Coast Guard to the extent that these agencies enforce criminal law and exercise criminal law enforcement powers. The committee has jurisdiction over the functions of the former National Infrastructure Protection Center, the Domestic Energy Response Team and the law enforcement training activities of the Federal Law Enforcement Training Center and the Office of Domestic Preparedness.

The Committee on the Judiciary has had jurisdiction over criminal law enforcement since 1880. This tradition largely derives from the jurisdiction over "the judiciary and judicial proceedings, civil and criminal," and "subversive activities affecting the internal security of the United States." The committee has played the lead

role in the House in criminal law enforcement policy. We have an extensive record of legislative and oversight activity that is set forth at in full in my written statement. Our committee has the expertise and experience in those areas, and it simply cannot be matched by a new committee, with a short history and a new staff.

There is more to law enforcement and training than just security. There is an important balancing to be done between security and civil liberties. It is dangerous to put that balancing task in a committee, the primary focus of which is security. I fear that civil liberties interest will be sacrificed.

Finally, I believe that the Committee on the Judiciary should retain jurisdiction over the Department of Justice, its prosecutorial activities, and its primary law enforcement agencies, including the FBI. Jurisdiction over the law enforcement agencies in DHS should remain in the same committee as the DOJ law enforcement agencies. There should be one unified approach that takes into account the complex balancing act that must occur.

Having some agencies under the jurisdiction of a committee that has traditionally carefully balanced civil liberties concerns with law enforcement concerns and having others under a committee that is focused solely on security is a prescription for disaster.

The Committee on the Judiciary has had jurisdiction over immigration and naturalization since 1946. Since that time, the committee has played an integral role over immigration policy. It has essentially created modern immigration law. It has an extensive record of oversight and legislative activity that is set forth in great length in my written statement.

As the record in my written statement shows, the Committee on the Judiciary has unparalleled experience and expertise in the immigration area and has demonstrated its ability to identify and remedy the vulnerabilities in our immigration system that expose our nation to risk. For decades it has done this work. Since 9/11, it has responded to the call to further strengthen our immigration policy.

There is another reason why immigration jurisdiction should remain with the Committee on the Judiciary. Although countering the terrorist threat is of significant importance in implementing our immigration laws, it is certainly not the only issue. Rather, immigration involves much more than homeland security, reuniting families, providing needed workers for American businesses, offering havens to refugees, and deporting those aliens who have broken our laws.

Security and legal immigration must be balanced. We must use our immigration enforcement powers to both protect our people from those who break our laws as well as to facilitate the admission of lawful entrants.

Another complexity in immigration policy is that authority over immigration is spread across four departments—Homeland Security, Justice, State, and Labor. The Judiciary Committee currently has jurisdiction over each of those components as well as over other agencies of limited jurisdiction that are charged with carrying out our immigration laws.

The variety of concerns involved here cries out for the experience and expertise of the committee that I chair. This committee has

long had the responsibility of balancing immigration, law enforcement, terrorism, and civil rights issues involved. A committee narrowly focused on security with a much shorter history is not the best place to try to balance the many complex interests involved. Rather, the Judiciary Committee's experience in dealing with the various immigration components counsels in favor of its continued jurisdiction.

I also want to address the argument that the DHS cannot function effectively if it must report to multiple committees.

First, DHS reports to several committees now; and while there is always room for improvement, the committee operation is effectively functioning now.

Secondly, every agency reports to at least four committees—a House authorizing committee, the House Appropriations Committee, a Senate authorizing committee and the Senate Appropriations Committee. Moreover, many existing agencies report to more than one authorizing committee in the House. All of these agencies are able to function effectively within these arrangements.

Third, the Committee on the Judiciary and the Select Committee on Homeland Security have already shown an ability to work together effectively on projects of mutual interest. We have already had one joint hearing, and another one will be held tomorrow. We are currently working on first responder legislation. Regardless of how this matter is resolved, if there is a Committee on Homeland Security, either select or permanent, I expect this working relationship to continue.

In short, the DHS is functioning effectively under the current committee system, and it can continue to do so in the future.

However the question regarding the future of the House Homeland Security Committee is resolved, I emphatically believe that the Committee on the Judiciary should retain jurisdiction over all the matters it now has. This is what we have done. It ain't broke, and it doesn't need fixing. We have the experience and the expertise. Over the years, we have shown the ability to apply the unified, balanced approach that these issues require; and this successful formula should not be altered.

Thank you.

Mr. DIAZ-BALART. Thank you very much, Mr. Chairman.

PREPARED STATEMENT OF THE HONORABLE JAMES SENSENBRENNER

Mr. Chairman, I am pleased to appear before the Subcommittee on Rules to testify concerning "Homeland Security Jurisdiction: The Perspective of Committee Leaders." To state my position briefly, I believe that the Committee on the Judiciary should retain jurisdiction over all matters that it currently has. In addition, while I am not opposed to a Committee on Homeland Security as such, I believe that the proponents of such a committee have the burden of proof, and that burden has not yet been satisfied.

Now let me explain that in more detail. As you know, Rule X sets forth the jurisdictional parameters of the various committees of the House. In general, I believe that Rule X is working well. However, the challenges brought on by the murderous terrorist attacks of September 11, 2001 require us to reexamine all that we are doing, including the operation of Rule X, to ensure that we are doing all that we can to protect our national security.

The Committee on the Judiciary has actively participated in the response to the 9/11 attacks and the new world that we face. That is entirely appropriate because our jurisdiction includes: "the judiciary and judicial proceedings, civil and criminal;" ". . . espionage and counterfeiting;" "civil liberties;" "immigration and naturalization;" and "subversive activities affecting the internal security of the United States."

*See generally* Clause 1(k) of Rule X. Among other things, the Committee was heavily involved in the passage of the USA PATRIOT Act and the Homeland Security Act. I believe that our record demonstrates that we are best able to continue to meet the challenge in those areas that have traditionally been within our jurisdiction. Let me now discuss that in more detail.

## I. THE DEPARTMENT OF HOMELAND SECURITY

On November 25, 2002, President Bush signed the Homeland Security Act ("HSA") creating the new Department of Homeland Security ("DHS") by combining numerous existing agencies that deal with various aspects of homeland security. Pub. L. No. 107–296. Section 1503 of the HSA provided that it is the sense of Congress that the House and the Senate should review their respective committee structures in light of the creation of the Department. In addition, § 4(b)(3) of House Resolution 5 requires the Select Committee to conduct a study of the operation and implementation of the House Rules with regard to homeland security.

The creation of DHS touches on the jurisdiction of the Committee on the Judiciary in three principal areas: immigration, law enforcement agencies at DHS, and federal and state law enforcement training both at the Federal Law Enforcement Training Center ("FLETC") and through grants to state and local law enforcement administered by the Office for Domestic Preparedness ("ODP"). The Committee has unique expertise in each of these areas, and it should continue to exercise jurisdiction over them.

## II. IMMIGRATION

The Committee on the Judiciary has jurisdiction over "immigration and naturalization" under clause (1)(k)(8) of Rule X. The HSA transferred the functions of what had been the Immigration and Naturalization Service ("INS") to DHS and divided those functions between what are now known as the Bureau of Customs and Border Protection ("CBP"), the Bureau of Immigration and Citizenship Enforcement ("ICE"), and the Bureau of Citizenship and Immigration Services ("CIS"). *See* HSA §§ 401 *et seq.*

### A. HISTORY

Beginning in 1893, the House had a standing Committee on Immigration and Naturalization. That committee had general jurisdiction over immigration and naturalization matters, but between 1893 and 1906, it also shared some matters in this area with the Committee on the Judiciary. In the Legislative Reorganization Act of 1946, the Committee on Immigration and Naturalization was abolished, and its jurisdiction was transferred to the Committee on the Judiciary.

Since that time, the Committee on the Judiciary has had exclusive jurisdiction over immigration and naturalization matters, and it has played an integral role in immigration policy. Specifically, the Committee has played a major role in a number of major immigration bills that have created and recreated modern immigration law: the Immigration and Nationality Act of 1952, the Immigration and Nationality Act Amendments of 1965, the Refugee Act of 1980, the Immigration Reform and Control Act of 1986, the Immigration Act of 1990, and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

In addition, since 1946, it has held hundreds of legislative and oversight hearings on these matters. Indeed, the Committee's Subcommittee on Immigration, Border Security, and Claims recognized the threat posed by alien terrorists well before 9/11. Two particularly notable hearings that foreshadowed the attacks were entitled "Terrorist Threats to the United States" on January 26, 2000, and "Law Enforcement Problems at the Border Between the United States and Canada, Focusing on the Issues of Drug Smuggling, Illegal Immigration, and Terrorism" on April 14, 1999.

### B. THE RECORD SINCE 9/11

Currently, the Committee deals with most immigration matters in its Subcommittee on Immigration, Border Security, and Claims. The Subcommittee's initial investigation of the September 11 attacks established that alien terrorists have studied our immigration system and they have identified and exploited weaknesses in that system in planning and carrying out their attacks. For that reason, the Subcommittee has focused special attention on the legislative, procedural, and technological vulnerabilities in our nation's immigration system, so that those vulnerabilities can be identified and remedied. The Subcommittee has also worked

to ensure that our immigration enforcement officers have the resources and authority to protect the United States from those aliens who would come to our country to harm the American people.

Since 9/11, the Subcommittee has conducted 35 hearings on immigration matters. Among the most important of these are hearings entitled: "US VISIT: A Down Payment on Homeland Security" on March 18, 2004; "Funding for Immigration in the President's 2005 Budget" on March 11, 2004 and February 25, 2004; "War on Terrorism: Immigration Enforcement Since September 11, 2001" on May 8, 2003; "Department of Homeland Security Transition: Bureau of Immigration and Customs Enforcement" on April 10, 2003; "The Immigration and Naturalization Service's Interactions with Hesham Mohamed Ali Hedayet" on October 9, 2002; "The Role of Immigration in the Department of Homeland Security" on June 27, 2002; "The Risk to Homeland Security From Identity Fraud and Identity Theft" on June 25, 2002; "The INS's March 2002 Notification of Approval of Change of Status for Pilot Training for Terrorist Hijackers Mohammed Atta and Marwan Al-Shehhi" on March 19, 2002; "The Implications of Transnational Terrorism for the Visa Waiver Program" on February 28, 2002; and "Using Information Technology to Secure America's Borders" on October 11, 2001.

The Committee has also conducted effective oversight through other means. For example, a Committee oversight letter to the former INS requesting the immigration file of Hesham Hedayet, who killed two and wounded several others at Los Angeles International Airport on July 4, 2002, revealed that the INS had failed to investigate the possible terrorist connections of this asylum applicant who claimed that he was suspected of terrorism in his home country. Committee requests brought this issue to the attention of the Attorney General, who ordered INS to review all existing asylum files "to ascertain whether other individuals may be present in the United States who have admitted that they have been accused of terrorist activity or terrorist associations." Such a review had not been previously undertaken despite other aliens having been able to use the asylum system to plan and carry out terrorist attacks in the United States, including Ramzi Yousef, mastermind of the first World Trade Center bombing, and Mir Aimal Kansi, who killed two CIA employees outside CIA headquarters in Langley, Virginia.

A Committee request for information about the INS's erroneous waiver into the United States of four Pakistani nationals, who were crewmen on a vessel that docked in Chesapeake, Virginia and who later absconded, led to the issuance of an order that all INS employees follow agency directives. The Committee's subsequent request for those directives helped spur the consolidation of those directives for the use of INS employees. Prior to this incident, those directives filled "roughly one-half dozen boxes . . . and several volumes of electronic materials." Today, most of this information has been consolidated and updated electronically and is available to employees of INS's successors at headquarters via CD–ROM and the intranet, and we understand that in the near future all internal directives will be accessible to all employees including those in the field.

The Committee's investigation and requests for information into the activities of John Allen Muhammad and Lee Boyd Malvo, convicted in connection with sniper shootings in the Washington, D.C. area in October 2002, has revealed loopholes in the policies and procedures for readmitting U.S. citizens to the United States when they return from countries in the Western hemisphere—loopholes that could be exploited by alien terrorists and criminals. The Committee is evaluating possible legislative fixes to these problems.

Committee oversight of the detention and release of alien criminals brought the problem of alien criminal recidivism to the attention of the INS. In working for the passage of Illegal Immigration Reform and Immigrant Responsibility Act of 1996, the Committee dramatically increased the number of criminal aliens detained and deported by the INS. The Committee's continued attention to the threat posed by alien criminals has contributed to a restructuring of staffing of the Institutional Removal Program, and a reassessment of the entire manner in which ICE identifies criminal aliens in the United States. When this restructuring is completed in 2005, ICE should be able to identify many, if not most, aliens in criminal detention in the United States.

Nor has our oversight work been limited to simple letters to the agencies. We have also requested a wide variety of General Accounting Office and Inspector General investigations to support oversight on Homeland Security and Immigration topics.

Committee hearings and oversight investigations in 2001 determined that one of the root causes of weak internal enforcement against immigration absconders was the breakdown of voluntary alien registration record updates at the INS. Voluntary status updates by registered aliens have been required by law since the Alien Reg-

istration Act of 1940 introduced the first national requirement that all aliens in the United States be registered with the government. It required registration, fingerprinting, and reports of changes of address, but fell into disuse in the 1990s.

To confirm and document our findings, on April 10, 2002, we requested and received the following report from GAO: "Homeland Security: INS Cannot Locate Many Aliens Because It Lacks Reliable Address Information" dated November 2002. The report detailed INS's negligence with regard to address and status updates. With the report in hand, we scheduled a series of high level meetings with immigration officials in December, 2002 and in January, 2003. As a result, INS's successors at DHS agreed to reinvigorate their enforcement of the registration law, and told us that the GAO study provided valuable guidance that would be used both to address policy and to improve management of information technology to update and maintain alien registration address and status records.

In 2001, I became deeply concerned after Committee hearings revealed indifferent oversight by the Department of Justice of INS's systems planning, procurement, and project management that led to failures in INS enforcement systems. I requested GAO to investigate DOJ's oversight of INS with regard to four specific systems used to track non-immigrant entry and exit information (Automated I–94 system), alien criminal records (ENFORCE), criminal alien fingerprints and photos (IDENT), and alien identity cards and Border Crossing Cards (ICPS).

The resulting report, "Information Technology: Justice Plans to Improve Oversight of Agency (INS) Projects" dated November 2002, has been extremely helpful not only to continuing oversight by this Committee, but also to the appropriators as they evaluate costs and benefits and agency performance at DHS, where these immigration functions are now located.

In 2002, Judiciary subcommittee hearings regarding identity theft and the ease with which the 9/11 terrorists were able to obtain drivers' licenses using fraudulent information led to our recognition that a key factor in confirming identity is whether the states employ information available from the Social Security Administration ("SSA"). After staff investigations determined weaknesses with the SSA process, I requested that the GAO investigate, resulting in the study "Social Security Numbers: Improved SSN Verification and Exchange of States' Driver Records Would Enhance Identity Verification" dated September 2003. The study led to three important recommendations that, if implemented by SSA, would lead to a reduction in driver's license fraud.

The Committee's oversight of both law enforcement information sharing and compliance with the Privacy Act led me to request that the GAO investigate whether complaints by the federal and state law enforcement agencies regarding the SSA's lack of cooperation are valid. Because SSA did not have a clear or consistent policy, I asked GAO to describe SSA's disclosure policy for law enforcement and how it compares with the Privacy Act and the policies of other federal agencies and to evaluate SSA's actual sharing of information with law enforcement. The resulting study "Disclosure Policy for Law Enforcement Allows Information Sharing, but SSA Needs to Ensure Consistent Application," dated September, 2003, included convincing evidence that SSA has not done enough to educate law enforcement agencies and its own employees about disclosure policies. More importantly, the SSA Commissioner, as a result of this study, agreed to update its policy manuals to clarify the rules for SSA law enforcement disclosures.

We plan to continue to pursue oversight of the SSA's responsiveness to the conclusions of both of these reports because of the critical importance of SSA records with regard to prevention of immigration fraud and identity theft. The SSA's policies and practices are particularly important with regard to enforcement of employer laws barring employment of illegal immigrants. As part of our ongoing oversight into federal agencies' failure to enforce employer related immigration laws, on June 26, 2003 together with Representative Shaw of the House Subcommittee on Social Security, I requested a GAO report addressing SSA's management and policy practices for employers who employ large numbers of illegal aliens. The study is looking at SSA's records of erroneous or fraudulent W–2 and W–4 earnings statements submitted by employers, as reflected in the Suspense Files for Earnings associated with invalid Social Security Numbers.

I also asked GAO to look at whether SSA has effective procedures to prevent aliens and identity thieves from fraudulently obtaining SSA cards. Ongoing meetings with the GAO investigative team indicate that there are numerous problems with SSA's policies that the Committee plans to examine in 2004 in the context of taking concrete steps to reduce illegal immigration and identity fraud—two issues that are intrinsically linked.

Within the context of the Committee's oversight of problems with SSA benefits fraud, in 2003, I became concerned about the SSA's announced intention of con-

cluding an Agreement with Mexico regarding "totalization," and requested the GAO to evaluate whether the SSA was accurately estimating the cost of the anticipated agreement. The GAO report, "Social Security: Proposed Totalization Agreement with Mexico Presents Unique Challenges" dated September, 2003, concluded that the SSA's estimates did not take into account the millions of Mexicans who have earned social security "quarters" working illegally in the United States. This Committee continues to conduct active oversight on the potential downstream effects of this Agreement, with regard to the potential it may have for increasing illegal immigration from Mexico once the totalization agreement provides assurance that illegal workers will receive Social Security benefits they are now denied. The Committee plans to continue to work with the House Subcommittee on Social Security to conduct active oversight of the Totalization Agreement practices of the SSA to prevent such agreements to become incentives for illegal immigration.

Our plans for the remainder of the 108th Congress regarding immigration enforcement include following up on anticipated results from a variety of other pending requests to GAO. One such project addresses overall statistical information on the number of illegal aliens in the United States, from a request dated April 16, 2002. This request has already produced testimony addressing the significant number of illegal immigrants who enter this country legally, but then overstay their visas to remain here indefinitely. The GAO research team anticipates delivery of a report in the next several months addressing the visa overstay problem more completely.

A request by Ranking Member Conyers and me to the GAO for an investigation regarding INS procedures for passenger transit and security at airports on July 12, 2002, led to a report which we used to meet with airport security officials regarding the need to improve the design of airports regarding the control of arriving international passengers. The report was not produced for public access because the security weakness disclosures might afford terrorists vital information.

Members of the Committee became concerned about news accounts of the issuance of consular identification cards by several nations to their citizens residing illegally in the United States and the policy position of the U.S. Department of State that it was powerless to prevent the issuance of these cards. The House passed a provision that would require the Department of State to actually regulate the issuance of such cards by foreign countries.

I requested that GAO gather information on the use of consular identification cards on April 29, 2003. The Committee plans to use this information to assist in legislative deliberations and in oversight of the Department of State. In particular, the Committee plans to examine whether the issuance of consular identity cards contributes to additional illegal immigration and whether reported loose practices by foreign nations may actually result in criminals who are not actually citizens of the issuing countries assuming false identities. Many States have revised their laws regarding the use of consular identity cards to bar the cards as valid identification for obtaining drivers' licenses, citing testimony by FBI and DHS officials at hearings conducted by Judiciary Subcommittees in 2003.

Concerned about reports of state budgets being overburdened by the cost of illegal immigration, in December, 2002, I requested a GAO study of the state costs of educating illegal alien school children. That study's release is due within the next several months, and it will figure into this Committee's plans to examine the previously undisclosed costs of the federal government's failure to enforce immigration laws.

The Committee has also requested the assistance of a number of the Offices of Inspector General ("OIG") of federal agencies to address homeland security issues. For example, beginning in 2001, the Committee requested a series of briefings from the Inspector General of the SSA regarding: (1) how terrorists associated with the 9/11 attacks were able to obtain valid social security numbers that they then used to create fraudulent identities; (2) how the SSA could improve controls over Social Security numbers to guard against criminal and terrorist use of SSNs; (3) how the SSA could improve information sharing and prosecutorial cooperation with federal law enforcement, especially with regard to the increasing number of criminal organizations that obtain valid SSNs through fraud for resale to illegal aliens.

Since the establishment of the DHS OIG in 2003, the Committee has requested a series of investigations of alleged mishandling of detained illegal aliens that led to the release of criminal aliens who went on to commit aggravated felonies, such as murder, rape and kidnapping. These DHS OIG investigations are now ongoing, some of which will lead to public reports. The Committee has also asked the DHS OIG to look into alleged mishandling of equipment pertaining to improved border security and into DHS's internal investigative units charged with identifying and prosecuting corruption by DHS employees.

The Committee has generally had a particularly active relationship with the DOJ OIG, leading to investigations highly relevant to immigration, border security, and information sharing among federal agencies pertaining to terrorist watch lists. Among the more prominent of public reports that were generated as a result of Committee requests are:

— A series of reports addressing the lack of integration between the INS (now ICE) and FBI fingerprint systems, among which the most notable are: IDENT/IAFIS: The Batres Case and the Status of the Integration Project (March 2004) and The Rafael Resendez-Ramirez Case: A Review of the INS's Actions and the Operation of Its IDENT Automated Fingerprint Identification System (March 2000).

— A May 2002 report entitled, "The Immigration and Naturalization Service's Contacts With Two September 11 Terrorists: A Review of the INS's Admissions of Mohamed Atta and Marwan Alshehhi, its Processing of their Change of Status Applications, and its Efforts to Track Foreign Students in the United States."

— Follow up March, 2003, "Followup Review on The Immigration And Naturalization Service's Efforts to Track Foreign Students in The United States Through The Student And Exchange Visitor Information System, (March 2003).

— "INS's Use of Re-employed Annuitants" (2002).

— A follow-up review on the visa waiver program—and a series of other INS programs that affect national security—addressing weaknesses in programs previously identified that could facilitate illegal entry of criminals and terrorists into the United States (December 2001).

— An Investigation of the Immigration and Naturalization Service's Citizenship USA Initiative (July 2000).

In addition, since becoming Chairman of the Committee, I have made eight trips to border areas within the United States and our consular offices and embassies overseas to learn personally how our immigration laws are being implemented. These trips include: California, Michigan, Florida, Texas, the United Kingdom, France, Thailand, Mexico, Germany, Saudi Arabia, Kuwait, and Belgium.

While the Committee has worked closely with the agencies over which it has oversight to craft responses to the vulnerabilities in our immigration laws and their implementation, there are limits to administrative action. For this reason, where necessary, the Subcommittee has drafted and worked to enact legislation to address the most serious immigration issues facing our country.

For example, the USA PATRIOT Act was the initial response to the 9/11 terrorist attacks, and it included a number of important tools to the federal government to combat alien terrorists. Before passage of the PATRIOT Act, there was no general prohibition against an alien contributing funds or other material support to a terrorist organization. The PATRIOT Act provides that an alien is inadmissible and deportable for contributing funds or other material support to an organization that has been designated as a terrorist organization by the Secretary of State, or for contributing to any non-designated terrorist organization, unless the alien can demonstrate that he did not know and should not reasonably have known that the funds or other material support or solicitation would further terrorist activity.

The PATRIOT Act also provides a mechanism whereby the Attorney General can certify an alien as a suspected terrorist and detain him for up to seven days before placing him in removal proceedings or charging him with a crime. If no charges are filed by the end of this period, the alien must be released. Otherwise, the Attorney General shall maintain custody of the alien until the alien is removed from the U.S. or is found not to be inadmissible or deportable.

The HSA included a version of the Committee's INS restructuring legislation. This legislation created a framework for handling the enormous task of keeping terrorists and criminals out while also treating legal aliens with the courtesy and respect they deserve.

The INS restructuring legislation was no small effort. Rather, it was the culmination of years of work by the Committee. The Immigration and Naturalization Service had been a beleaguered bureaucracy for decades. Appropriators continually increased the INS's budget, hoping that additional resources were what was needed to solve the agency's shortcomings. Just in recent times, the INS's budget increased from $1.4 billion in fiscal year 1992 to $5.5 billion in fiscal year 2002. Notwithstanding this budgetary expansion, the INS's performance did not improve.

The magnitude of the INS's problems was extraordinary—it had a backlog of millions of applications to be adjudicated, forcing aliens trying to play by the rules to wait in limbo for years. Millions of illegal aliens resided in the United States. Hundreds of thousands of criminal and deportable aliens ordered removed by immigration judges had absconded. Much of the INS's failure stemmed from the conflict between its enforcement and service missions.

The Immigration Act of 1990 established the U.S. Commission on Immigration Reform to review and evaluate our immigration system. The Commission, chaired by the late Barbara Jordan, concluded that the INS suffered from mission overload. The Commission explained that the INS was required to give equal weight to more priorities than any one agency can handle: "[i]mmigration law enforcement requires staffing, training, resources, and a work culture that differs from what is required for effective adjudication of benefits or labor standards regulation of U.S. businesses." The agency moved from one crisis to the next, with no coherent strategy of how to accomplish both missions successfully. Time and time again it attempted to cure itself with internal reorganizations that cured little and often made the patient worse.

In 1995, the Judiciary Committee began to examine management problems in the INS and "radical" proposals to break apart and remake the agency. In February, 1995, the Immigration Subcommittee held a hearing on management practices at the INS. In May, 1998, the Subcommittee held a hearing examining alternative proposals to restructure the INS. In July, 1998, the Subcommittee for the first time approved legislation to break apart the enforcement and service functions of the INS.

Representative Hal Rogers, then chairman of the Commerce, Justice, State Subcommittee of the Appropriations Committee, introduced this legislation. Mr. Rogers worked closely with Immigration Subcommittee Chairman Lamar Smith to fundamentally reform INS. The Committee's goal was finally achieved last Congress.

I was scheduled to introduce the Barbara Jordan Immigration Reform and Accountability Act when September 11 intervened. However, after a delayed introduction, the House approved my legislation in April, 2002 by an overwhelming margin. This bill would have broken the INS apart into a Bureau of Citizenship and Immigration Services and a Bureau of Immigration Enforcement, both within the Department of Justice. Then President Bush decided to seek creation of a Department of Homeland Security. When the HSA was sent to the President for signature in November, 2002, it included the bifurcation of immigration functions that the Committee had been seeking for so long—only now within the newly created department. The Committee is proud of this accomplishment and wants to assist the new immigration agencies in fulfilling their promise.

The Committee was also instrumental in passing the Enhanced Border Security and Visa Entry Reform Act of 2002 which took several steps to tighten our border and visa policies including: requiring biometric identifiers (i.e., fingerprints, retinal scans, etc.) for visas; requiring biometric scanners at all U.S. points of entry; requiring DHS to implement an entry-exit tracking system; strengthening the reporting requirements for the foreign student tracking system; providing DHS and consular officials access to the databases of U.S. law enforcement and the intelligence community; authorizing an additional 200 immigration investigative personnel and 200 immigration inspectors for each of the next 5 years; and providing a pay raise and additional training for immigration personnel, including Border Patrol agents.

Finally, the Committee reported H.R. 1954, to provide various immigration benefits to members of the Armed Forces fighting in Iraq and their families. A version of this legislation was incorporated in the Department of Defense authorization bill for FY 2004.

Going forward, the Judiciary Committee's immigration oversight will continue to focus on making America safer. The terrorist threat against us is composed almost entirely of persons who came to the United States from abroad. We cannot ignore the link between our immigration system and our vulnerability to terrorism. It is not just a matter of fixing the student visa program or the tourist visa program. Every aspect of our immigration system has been used by foreign terrorists to gain access to, and a safe haven in, the United States. Let me cite a report issued by the Center for Immigration Studies that tracked how 48 foreign-born militant Islamic terrorists, including the 9/11 hijackers, entered the U.S. over the last decade. The Center found that:

[The terrorists] used almost every conceivable means of entering the country. They have come as students, tourists, and business visitors. They have also been [legal permanent residents] and naturalized U.S. citizens. They have snuck across the border illegally, arrived as stowaways on ships, used false passports, and have been granted amnesty. Terrorists have even used America's humanitarian tradition of welcoming those seeking asylum.

The Committee will work continuously to ensure that no aspect of our immigration system can be used by terrorists to strike at America.

The Committee will also strive to ensure that the great promise of a restructured immigration service is fulfilled. The Committee is concerned about the continuing poor manner in which legal immigrants are treated by CIS. The backlog of applica-

tions waiting to be adjudicated has exceeded the six million mark. This disrupts the lives and dreams of aliens who are playing by the rules and deserve to be treated better. Committee oversight will focus on righting this wrong.

The Committee also will continue to apply stringent oversight to DHS's efforts to enforce our immigration laws. The Committee will continue its ongoing supervision of DHS initiatives to curtail immigration fraud, to ensure that all deportable criminal aliens are identified, detained, and removed, to secure our northern and southern borders from illegal aliens and alien terrorists, to prevent illegal aliens from finding employment in the U.S., and to ensure that aliens ordered removed are actually removed.

More specifically, for the balance of the 108th Congress, a major activity will be oversight of DHS's compliance with the Border Security Act and the USA PATRIOT ACT. We plan hearings that address the complex and intertwined requirements to establish clear requirements for security upgrades to U.S. passports and visas, as well as to nations whose citizens may enter the country without visas under the Visa Waiver Program ("VWP").

The first of these hearings will examine the capability of VWP countries to meet two deadlines that become effective on October 26, 2004: (1) the countries must issue tamper resistant machine readable passports after that date; and (2) their passports must contain a biometric identifier in a form that can read by U.S. inspectors. The Committee will also make an assessment of DHS's preparations for reading the new passports and for reading the new biometric, tamper resistant visas that the State Department is scheduled to begin issuing in advance of the deadlines.

The Committee plans an additional hearing that will examine whether the Secretary of State and the Secretary of Homeland Security have met the requirements of the Border Security Act with regard to establishing a clear set of standards for machine readable travel documents based on the National Institute of Standards and Technology's research and recommendations. Further, the hearing will address what kind of notice should be provided to foreign countries who have publically state that they will try to comply with the U.S. deadlines.

Another hearing planned for late in the 108th Congress will address DHS's deployment of identity card scanners at more than one hundred ports of entry to validate the identities of foreign travelers who present the border crossing cards, by testing the biometric photo and fingerprints stored on the card against the bearer. This important milestone, first set by the 1996 Act, was further specified in the Border Security Act. The DHS Executive Director of Border Security and Facilitation testified before the Subcommittee last week that CBP will deploy these scanners beginning in June, 2004, and will have inspectors trained in using them well before the October 26th deadline. The Committee will assess DHS's compliance with this deadline, and its effect on identifying imposters and protecting our country from criminals and terrorists attempting to use fraudulent information to enter the United States.

Major oversight objectives planned by the Committee for the remainder of the 108th Congress and the 109th Congress are to examine the nexus between money laundering and the financing of large scale alien smuggling into the United States, as well as how money laundering here continues to fund terrorism throughout the world. Within that context, the Committee plans to address the organization of DHS's Office of Inspector General to ensure that the process of assembly of auditors and inspectors to compose this new office has not led to gaps in performance audits. Importantly, the components of the Treasury OIG which have traditionally audited the Secret Service with regard to money laundering and counterfeiting investigations were transferred to the DHS OIG. The Committee plans to assess whether the DHS OIG is performing its required role of assessing the performance of DHS money laundering investigators. This plan aligns with the GAO study request I made in December, 2003 to study the Department of Treasury's remaining money laundering enforcement team and its coordination with DHS's ICE. The GAO is tasked to identify faster and more effective means to bring Treasury's capabilities to bear in money laundering. This study will also address whether the Treasury is directing the Internal Revenue Service and other Treasury agencies to use the PATRIOT Act provisions to share information to pursue terrorist and alien smuggling organizations.

In the 109th Congress, the Committee also plans to use information derived from a GAO study request I made in November, 2003, to look at Treasury's enforcement of money laundering prevention provisions of the PATRIOT Act. Although Treasury's role is often overlooked by others, it contributes both to DOJ and to DHS efforts to prevent terrorist acts here in the United States. It is the Treasury which has the predominant authority with regard to gathering and assessing Suspicious Activity Reports (SARs) provided by banks. We intend to examine whether Treasury

is effective in telling banks what to look for with regard to potential terrorist or alien smuggling money laundering. We will also examine whether Treasury is providing useful sorting and filtering of the thousands of reports so that DOJ and DHS enforcement officers can take timely action to prosecute criminals and prevent terrorist acts.

In the remainder of the 108th Congress and the 109th Congress, we intend to look intensively at whether the Internal Revenue Service is performing its mission to enforce immigration laws, including specifically INA provisions that apply to the IRS. To assess what the IRS is doing as a basis for this oversight, Rep. Hostettler, Chairman of the Immigration Subcommittee, requested that the GAO evaluate the IRS pilot penalty program for employers who are problem filers of wage reports. We want to know whether the IRS has the resources and the will to enforce employer penalties, or whether that function should be transferred through legislation to a more aggressive agency.

In the remainder of the 108th Congress and the 109t h Congress, we will conduct active oversight into the cost of incarcerating alien criminals and the potential role of local law enforcement in assisting federal agencies with the prosecution of criminal aliens. To that end, I requested the GAO to prepare a detailed study of the number of criminal aliens incarcerated in federal and state correctional facilities, the types of crimes they committed and the costs of incarceration. This oversight is consistent with the Committee's concerns about unrecognized costs of illegal immigration and the need to bring more resources into coordination with DHS's mission of internal immigration law enforcement. We intend to use information from this study to hold one or more hearings on the scale of the criminal alien problem and what needs to be done about it through targeted legislation.

### C. Jurisdiction over Immigration Should Remain In the Committee on the Judiciary

As the foregoing record shows, the Committee on the Judiciary has unparalleled experience and expertise in the immigration area, and it has demonstrated its ability to identify and remedy the vulnerabilities in our immigration system that expose our nation to risk. For decades, it has done this work. Since 9/11, it has responded to the call to further strengthen our immigration policy.

But there is another reason that immigration jurisdiction should remain with the Committee on the Judiciary. Although countering the terrorist threat is of significant importance in implementing our immigration laws, it is not the only issue. In fact, only a small fraction of aliens in the United States have any connection to terrorism. Rather, immigration involves much more than homeland security—reuniting families, providing needed workers for American businesses, offering haven to refugees, and deporting those aliens who have broken our laws. Lawful immigrants to the United States should not be viewed by the American people as a threat to be contained, and our country cannot afford to be viewed as an unwelcoming host to those who would come here lawfully to make a contribution to our way of life. Immigration is America's past, present, and future.

Two projects in which the Committee has played a leading role illustrate this need for balance. In the mid-1990s, Committee members became concerned about the admission and presence of alien students in the United States. In 1996, the Committee worked to secure passage of a provision for a tracking system for such students during their stay in the United States. Administrative delays and competing interests slowed the development of that system.

The Committee's foresight on this issue became all too clear following 9/11 when it was revealed that the pilot who flew American Airlines Flight 11 into the Pentagon was an alien student who failed to show up at school, and that two of the other pilots received visas to take their flight training in the United States. The Committee again pushed, through the PATRIOT Act, for full implementation of that system.

Recognizing the possible delays that such a system could pose and the economic and academic value of foreign students to the United States, the Committee worked closely with INS, and then with DHS, as it implemented that program to ensure that the concerns of students and schools, as well as national security concerns, were considered during the design and deployment of the system. Committee staff met with school administrators and associations for feedback during the development of the system, now known as SEVIS. The Committee held two separate oversight hearings during the development and implementation of that system, to allow school officials and the Justice Department's Inspector General to confront government officials with their concerns and complaints about the system.

Finally, the Committee pressed DHS to start collecting the fee required for funding of that system; the Department issued a proposed rule for collection of that fee in October 2003, and final regulation is pending. Once DHS starts collecting that fee, it will save the American people an estimated $50 million in enforcement costs that they currently pay. All in all, notwithstanding some bumps in the road, I believe that SEVIS has been a success and that this system has made the United States safer without imposing an onerous burden on either foreign students or American schools. The Judiciary Committee's balancing of the needs of both security and the needs of the students and the schools has played no small role in that success.

Likewise, the Committee was concerned about tracking of non-immigrant aliens in the United States. Section 110 of IIRIRA required the development of an entry-exit system that would track non-immigrants who overstayed their visas. Active oversight by the Committee following IIRIRA determined that virtually no progress was made to plan for needed improvements in legacy systems to improve entry inspections, and no progress at all was made to establish exit controls for travelers. This led to the Committee's initiative to establish the Data Management Improvement Act of 2000 ("DMIA"), which further amended section 110 to require the basic system to collect electronic data on the arrival of aliens with the capability of matching that data with an alien's departure data. The DMIA did much more than establish the requirement—it also required INS to establish a DMIA task force to include other federal government agencies, state and local government representatives, and private industry groups representing businesses. DMIA charged the Task Force with intensively studying the problems and issues related to establishing a comprehensive entry exit system and publishing the results. The Committee pursued aggressive oversight with the INS to get the Task Force established and operating, participating in meetings and site visits as the required DMIA work was undertaken.

In late 2001, recognizing the continued delays by the Department of Justice, including INS, and the Department of State in sharing information and the failures to coordinate data between entry systems and visa systems, I drafted the Enhanced Border Security and Visa Entry Reform Act of 2002 to mandate improvements in data sharing, entry controls, and international travel documents. Working with other Members of the House and with the Senate, hard deadlines were established by which real change had to be completed.

Since the Act became law, the Judiciary Committee has aggressively worked to ensure that all elements of the federal government were working together to meet the Act's requirements. The Committee's work entailed hundreds of hours of meetings pursuing the detailed plans, pilot programs, technology tests, and procurement actions necessary to get the job done. It included meetings with the National Institute of Standards and Technology team, coordinating with industry and government to establish practical standards for biometric identifiers in documents, and meeting with federal government delegates to the International Civil Aeronautics Machine Readable Travel Document groups to insure that there was parallel progress at the international level. Both in 2003 and 2004, the Committee hosted briefings for Congress by the DMIA task force, the most recent of which was a March 15, 2004 presentation to which staff of the Select Committee on Homeland Security was invited.

These two examples show the need for balance between security and facilitating legal immigration. It was to balance out immigration enforcement and services that the Committee proposed splitting those functions which had long been joined in the former INS. We must use our immigration enforcement powers to protect our people from those who break our laws. We must also, however, continually exert our best efforts to facilitate the admission of lawful entrants.

Another complexity of immigration policy is that authority over immigration is spread across four departments—Homeland Security, Justice, State, and Labor. From the issuance of a visa to removal from the United States, an alien could interact with no fewer than nine components in those four departments. The Judiciary Committee currently has jurisdiction over each of those components, as well as over other agencies of limited jurisdiction that are charged with carrying out our immigration laws. Even with the formation of the Department of Homeland Security, the Attorney General's opinion with respect to all questions of law involving the Immigration and Nationality Act is controlling, and he has final authority over the decisions in our nation's immigration judiciary system.

The variety of concerns involved in these many conflicting and overlapping interests cries out for the experience and expertise of the Committee on the Judiciary. This Committee has long had the responsibility for balancing the immigration, law enforcement, terrorism, and civil rights issues involved. A committee narrowly focused on security and with a much shorter history is not the best place to try to

balance the many complex interests involved. Rather, the Judiciary Committee's experience in dealing with the various immigration components should tip the scales in favor of its continued jurisdiction.

## III. Law Enforcement Agencies at DHS

Another aspect of the HSA that implicates the jurisdiction of the Committee on the Judiciary is the transfer of law enforcement agencies. The HSA transferred several criminal law enforcement agencies to DHS: the Secret Service, the Immigration and Naturalization Service ("INS"), the Customs Service, the Transportation Security Administration ("TSA"), the Federal Protective Service ("FPS"), and the Coast Guard. The Committee on the Judiciary has general jurisdiction over the Secret Service and the successors to the INS. It has jurisdiction over the successors to the Customs Service, TSA, FPS, and the Coast Guard to the extent that these agencies enforce criminal law and exercise criminal law enforcement powers. The Committee also has jurisdiction over the functions of the former National Infrastructure Protection Center, which was formerly part of the FBI, and the Domestic Emergency Response Team, which formerly advised the FBI when there was an emergency.

### A. History

The Committee on the Judiciary has long had jurisdiction over criminal law enforcement. This tradition largely derives from the Committee's jurisdiction over "the judiciary and judicial proceedings, civil and criminal" under clause (1)(k)(1) of Rule X and "subversive activities affecting the internal security of the United States" under clause (1)(k)(18) of Rule X. The Committee has had jurisdiction over criminal law under the House Rules since 1880. It acquired jurisdiction over subversive activities when the Committee on Internal Security was abolished in 1975.

In that period, the Committee has played the lead role in the House in criminal law enforcement policy. For example, the Committee was instrumental in passing the most important terrorism bill to become law before 9/11, the "Antiterrorism and Effective Death Penalty Act of 1996," which was Congress's response to the murderous terrorist attack on the federal building in Oklahoma City.

Over the more than 100 years of its jurisdiction in this area, the Committee has held hundreds of legislative and oversight hearings on these matters. Indeed, the Committee's Subcommittee on Crime, Terrorism, and Homeland Security had begun considering the terrorist threat even before 9/11 holding hearings entitled: "The Threat Posed by the Convergence of Organized Crime, Drug Trafficking, and Terrorism" on December 13, 2000, "Breaches of Security at Federal Agencies and Airports" on May 25, 2000, "Prohibition on Financial Transactions With Countries Supporting Terrorism Act of 1997" on June 10, 1997, and "The FBI Investigation into the Khobar Towers Bombing in Dhahran, Saudi Arabia and the Foreign Investigative Activities of the FBI in General" on February 12, 1997.

### B. The Record Since 9/11

Since 9/11, the Subcommittee on Crime, Terrorism, and Homeland Security has held 29 hearings on law enforcement matters. Among the most important of these are hearings entitled: "Law Enforcement Efforts Within the Department of Homeland Security" on February 3, 2004, "Homeland Security-the Balance Between Crisis and Consequence Management through Training and Assistance (Review of Legislative Proposals)" on November 20, 2003, "Terrorism and War-Time Hoaxes" on July 10, 2003, "The Proposal to Create a Department of Homeland Security," on July 9, 2002, "The Risk to Homeland Security From Identity Fraud and Identity Theft" on June 25, 2002, the "Antiterrorism Explosives Act of 2002" on June 11, 2002, and the "Homeland Security Information Sharing Act" on June 4, 2002, the "Cyber Security Enhancement Act" on February 12, 2002, the "Implementation Legislation for the International Convention for the Suppression of Terrorist Bombings and the International Convention for the Suppression of the Financing of Terrorism" on November 14, 2001, and the "Anti-Hoax Terrorism Act of 2001" on November 7, 2001.

In addition to these hearings, the Judiciary Committee, in the spirit of cooperation, has held a joint hearing with the Select Committee on Homeland Security on the Terrorism Threat Integration Center ("TTIC") on July 22, 2003, and jointly sent letters with post-hearing questions to the relevant agencies on the implementation of TTIC. Tomorrow, on March 25, 2004, the Judiciary Committee and Homeland Security Committee will hold another joint hearing. This one will focus on the integration of terrorism watchlists at the Terrorism Screening Center.

The Committee on the Judiciary has also conducted oversight through other means. It has sent two major oversight letters to the Attorney General on the imple-

mentation of the USA PATRIOT Act. These letters were aimed at ensuring that the Department of Justice maintains a proper balance between security and civil liberties in implementing the Act.

The Committee has also closely monitored the activities of DHS recently sending letters to Directors of ICE and FPS regarding their law enforcement missions at the Department of Homeland Security. The Committee will soon send a letter to FLETC on its law enforcement mission. Additionally, it has sent a letter to the Federal Communications Commission and will soon send a letter to DHS regarding the Administration's efforts to ensure the ability of first responders to communicate with one another with interoperable equipment. I have also traveled to New York personally to observe the operations of the Secret Service there.

In addition, the Committee has requested several GAO reports in this area including: "Combating Terrorism: Funding Data Reported to Congress Should be Improved" dated November 2002; "Social Security Administration: Disclosure Policy for Law Enforcement Allows Information Sharing, But SSA Needs to Ensure Consistent Application" dated September 2003; and "Firearms Control: Federal Agencies Have Firearms Controls, But Could Strengthen Controls in Key Areas" dated June 2003.

The Subcommittee has played a central role in passing legislation in response to the 9/11 attacks. The Committee reported out the legislation that became the USA PATRIOT Act in a 36–0 bipartisan vote. That Act was Congress's initial response to the 9/11 attacks. It provides new tools for law enforcement and for improved information sharing among Federal agencies to address terrorist threats. It also authorizes the sharing of information between the intelligence and law enforcement communities and makes it easier to begin investigations of foreign intelligence subjects.

The Subcommittee has also moved a variety of other legislative responses to the attacks. It reported implementation legislation for the International Convention for the Suppression of Terrorist Bombings and the International Convention for the Suppression of the Financing of Terrorism that became law on June 25, 2002. This legislation helped to implement treaties the U.S. and dozens of others countries have signed to suppress terrorist bombings and the financing of terrorism.

Several other pieces of legislation developed by the Subcommittee were incorporated into the HSA. They include: the Cybersecurity Enhancement Act of 2002 that enhanced protections against cyber attacks by terrorists; the Homeland Security Information Sharing Act that enhanced intelligence and law enforcement information sharing among federal, state, and local governments to help protect against terrorist attacks; and the Anti-Terrorism Explosives Act of 2002 that places common sense requirements on those purchasing, transporting, or using explosive materials. The Committee is continuing this work with the Anti-Hoax Terrorism Act and legislation to adequately fund first responders.

Some additional oversight efforts in the law enforcement area that the Judiciary Committee plans to pursue in the near future include border corruption, financing of terrorism activities, transportation security, and background checks for security personnel and others that affect the national security or public safety.

First, the Committee will be looking at corruption of government officials on the border. The Committee is concerned by reports of bribes of officials who allow contraband and persons to be smuggled into the United States. The Committee has already sent oversight requests in this area and plans to a review this problem further. Second, the Committee will be holding hearings on how terrorists are financing their activities, what law enforcement is doing to stop that financing, and whether law enforcement needs further legislative support. Third, the Committee is reviewing transportation security and container security issues, e.g., H.R. 4008, the "Anti-Terrorism Protection of Mass Transportation and Railroad Carriers Act of 2004," was referred solely to the Judiciary Committee. This legislation would increase penalties for terrorism against mass transportation and railroads and enhance law enforcement tools to combat and prevent such attacks. Fourth, the Judiciary is examining the various laws authorizing criminal history background checks and new legislation to provide such background checks for private security guards.

### C. Criminal Law Enforcement at DHS

The Committee on the Judiciary has long been the authorizing committee for the Secret Service. Indeed, the Committee reported the first modern authorization of the Secret Service in 1951. Pub. L. No. 82–79. It has remained the authorizing committee for the Secret Service since that time.

The HSA provided for the Secret Service to become a separate agency within DHS—i.e., it is not within any of the directorates of DHS. See—1703 of the HSA. It has two missions: law enforcement, particularly with respect to counterfeiting, a

matter within the Committee on the Judiciary's jurisdiction, and the protection of the President, the Vice President, their immediate family members, and others.

The HSA also established the Border and Transportation Security Directorate ("BTS"), and it is responsible for maintaining the security of our nation's borders and transportation systems. BTS is comprised of law enforcement and other employees from the former INS, the former Customs Service, TSA, FPS, and the Coast Guard.

CBP consists of elements of the former INS and the former Customs Service. In addition to its immigration responsibilities, CBP plays a critical role in confronting the law enforcement challenges facing our nation. CBP's Interdiction and Security (Outbound) enforces criminal export laws and regulations that prevent weapons of mass destruction from falling into the hands of terrorists. As part of this responsibility, the agency interdicts illicit proceeds from narcotics and other criminal activities in the form of unreported and smuggled currency.

Another new agency within BTS is ICE, which is the largest investigative arm of DHS. It also includes elements of the former INS and the former Customs Service. Assistant Secretary Michael J. Garcia, then Acting Assistant Secretary for ICE stated that "[t]hrough this reorganization, ICE is building a foundation to become one of the world's preeminent law enforcement agencies—one that provides unparalleled investigation, interdiction, and security services to the public and to our partners at DHS." Department of Homeland Security announcement entitled ICE Announces Agency Reorganization Plan dated May 16, 2003. Outside of its immigration role, the responsibilities of ICE range from law enforcement intelligence work to investigating child pornography.

TSA is also part of BTS. TSA's primary mission is to provide for the security of the civil aviation system, including all domestic cargo and passenger air transportation, as well as the civil aviation infrastructure. TSA has authority to receive, assess, and distribute intelligence information and assess threats to transportation facilities. 49 U.S.C. § 114(f).

TSA's budget request described part of its mission as ensuring that it builds a strong enforcement presence on-site at the nation's commercial airports. TSA negotiates long-term agreements with state and local enforcement agencies to provide uniformed officers at passenger security checkpoints.

TSA includes the National Explosives Detection Canine Team Program to provide local law enforcement officers with the right equipment, technical assistance, and partial reimbursement costs for security. It also supports Federal Flight Deck Officer training for pilots at FLETC to train pilots on the use of firearms.

FPS is responsible for law enforcement protection of federal employees and property. According to its web page, the mission of FPS is "to provide law enforcement and security services to over one million tenants and daily visitors to all federally owned and leased facilities nationwide. FPS's protection services focus directly on the interior security of the nation and the reduction of crimes and potential threats in federal facilities throughout the nation."

The Coast Guard is also a law enforcement agency with a mission divided into four major roles—maritime law enforcement, maritime safety, marine environmental protection, and national defense. The Coast Guard's law enforcement functions include maritime narcotics enforcement. *See* 46 U.S.C. App. § 1903, 14 U.S.C. § 89, 16 U.S.C. § 2409.

At a February 3, 2004 hearing before the Judiciary Committee's Subcommittee on Crime, Terrorism, and Homeland Security, Admiral Thomas Collins testified that the Coast Guard has extensive regulatory and law enforcement authorities. He further stated that Maritime Safety and Security Teams of the Coast Guard have provided critical port security, deterrence, and response capability. These efforts include the use of canines and divers to detect narcotics and explosives hidden on board vessels. Interdiction of narcotics is a primary law enforcement mission of the Coast Guard both directly and through law enforcement partnerships.

The National Infrastructure Protection Center ("NIPC") was created in May of 1998 through Presidential Decision Directive 63 as an interagency center housed at the FBI Headquarters. At the FBI, NIPC served as the focal point for the governments efforts to warn of, and respond to, cyber threats. NIPC was also part of the FBI's Counterterrorism Program the mission of which was to detect, deter, prevent, and swiftly respond to terrorist actions that threatened U.S. national interests at home or abroad. Briefing Book of General Information on the FBI, (2000) at 84. The FBI used NIPC to assist in the coordination of ongoing computer crime investigations and identification of threats against the nation's critical infrastructure. The HSA transferred NIPC to the Department of Homeland Security and it was placed into the Information Analysis and Infrastructure Protection Division ("IAIP"). The functions of NIPC have been assumed into various components of IAIP.

The HSA transferred the Domestic Emergency Support Team ("DEST") from the Department of Justice to the Department of Homeland Security where it is now referred to as the Domestic Emergency Response Team. DEST was an interagency team responsible for providing the FBI, the lead Federal agency for crisis management, with expert advice and support concerning the U.S. Government's capabilities in resolving the terrorist threat or incident. When such a threat or incident occurred, this rapidly deployable interagency team was activated to provide crisis and consequence management assistance, technical or scientific advice, and contingency planning guidance tailored to situations involving chemical, biological, or nuclear weapons. The DEST was managed by the FBI's Critical Incident Response Group. Its mission was to provide expert advice and assistance to the FBI On-Scene Commander related to the capabilities of various federal agencies depending on the type of terrorist attack. This task force was not an office and did not have assets or resources. Its sole responsibility was to advise the FBI during the response to an attack.

In short, the Committee on the Judiciary has general jurisdiction over the Secret Service and the successors to INS (ICE, CBP, and CIS). It has jurisdiction over the successors to the Customs Service, TSA, FPS, and the Coast Guard to the extent that they enforce criminal laws and exercise criminal law enforcement authorities. It also has jurisdiction over the functions of the former NIPC and the former DEST.

### D. Jurisdiction over the Law Enforcement Agencies at DHS Should Remain in the Committee on the Judiciary

The Committee on the Judiciary has a long and vast history of jurisdiction over law enforcement agencies. It has the expertise and the experience in these areas. That expertise and experience simply cannot be matched by a new committee with a short history.

As with immigration, there is more to law enforcement than just security. There is important balancing to be done between security interests and civil liberties interests. Indeed, during consideration of the HSA itself, the Committee reported several civil liberties provisions, including heightened whistleblower protections, a more independent Inspector General at DHS, and the creation of a privacy officer to ensure against the unauthorized disclosure or dissemination of personally-identifiable information. The Committee on the Judiciary has been at this balancing task for years. It is dangerous to put that balancing task in a committee the primary focus of which is security. I fear that civil liberties interests would be sacrificed.

Finally, I believe that under any scenario, the Committee on the Judiciary will retain jurisdiction over the Department of Justice and its primary law enforcement agencies, the Federal Bureau of Investigation, the Drug Enforcement Administration, and the Bureau of Alcohol, Tobacco, Firearms, and Explosives. In addition, the Committee on the Judiciary will retain jurisdiction over the various prosecutorial activities of the Department of Justice. Jurisdiction over the law enforcement agencies in DHS should remain in the same committee as the DOJ law enforcement agencies. There should be one unified approach that takes into account the complex balancing that must occur. Having some agencies under the jurisdiction of a committee that has traditionally carefully balanced civil liberties concerns with law enforcement concerns and having others under a committee that is focused solely on security is a prescription for disaster. Jurisdiction should be based on function—not agency carrying out the function.

## IV. Law Enforcement Training at DHS

The HSA transferred two major law enforcement training programs to DHS: FLETC and ODP.

### A. History

The Committee on the Judiciarys history of jurisdiction over law enforcement training derives from the same sources and has the same history as its jurisdiction over law enforcement agencies. See III.A, above. Before 9/11, the Subcommittee on Crime, Terrorism and Homeland Security had considered the predecessors to ODP within broader oversight hearings on May 15, 2001 and July 22, 1999.

### B. The Record Since 9/11

As noted above, since 9/11, the Subcommittee on Crime, Terrorism, and Homeland Security has held 29 hearings on law enforcement matters. Several of these have included discussion of law enforcement training. A three-part hearing on the effec-

tiveness of the Office of Justice Programs, which then included ODP, occurred on March 5, 7, and 14, 2002. More recently, the Subcommittee has conducted hearings on "Law Enforcement Efforts Within the Department of Homeland Security" on February 3, 2004, and "Homeland Security-the Balance Between Crisis and Consequence Management through Training and Assistance (Review of Legislative Proposals)" on November 20, 2003, both of which dealt with law enforcement training. I have traveled personally to Vermont to observe the training of law enforcement agents there.

Due to press reports of mismanagement of first responder grants, on January 21, 2004, the Committee on Judiciary sent letters to the Secretary of the Department of Homeland Security and the Inspector General of the Department of Homeland Security requesting a review. It appears that this letter has been effective. According to a FCW.com March 9, 2004 article, "Officials from the Homeland Security Department's Office of Domestic Preparedness are putting in place several policies to oversee and enforce how state and local agencies are spending their federal funding, according to an ODP official."

Right now, the Committee on the Judiciary is working with this Committee on Chairman Cox's first responder funding bill, H.R. 3266. We are not in total agreement on all of the issues, but we have reached agreement on many of our differences and we will continue to work cooperatively to produce a good bill in this critical area.

Additionally, the Committee is reviewing all law enforcement training, including homeland security training, provided by all Federal law enforcement agencies. The Committee is also examining the training and authority of public and private uniform security officers protecting Federal buildings and critical infrastructure. As part of this review, the Committee has written oversight letters to FLETC and FPS.

### C. The Federal Law Enforcement Training Center

According to the FLETC web page, the stated mission of FLETC is "to serve as the Federal government's leader for and provider of world-class law enforcement training. We prepare new and experienced law enforcement professionals to fulfill their responsibilities in a safe manner and at the highest level of proficiency. We also ensure that training is provided in the most cost-effective manner by taking advantage of economies of scale available only from a consolidated law enforcement training organization."

### D. The Office for Domestic Preparedness

Until passage of the HSA, the Office for Domestic Preparedness was an office within the Department of Justice responsible for establishing domestic preparedness programs and activities to assist state and local governments to prepare for, and respond to, terrorist incidents, including attacks involving weapons of mass destruction. The Judiciary Committee, through the enactment of the USA PATRIOT Act, authorized the Office (formerly the Office for State and Local Domestic Preparedness Support of the Office of Justice Programs) in the Department of Justice. The Committee on Judiciary changed the name of this office to the Office for Domestic Preparedness, in the "21st Century Department of Justice Appropriations Authorization Act" and further authorized the ODP to assist states and localities.

### E. Jurisdiction over Law Enforcement Training at DHS Should Remain in the Committee on the Judiciary

The Committee on the Judiciary should retain jurisdiction over law enforcement training for much the same reasons that it should retain jurisdiction over law enforcement agencies. It has the experience and expertise in this area. Training, like other law enforcement activities, requires a careful balancing of interests that a committee focused solely on security is not likely to handle well. Other law enforcement agencies will remain with the Committee on the Judiciary under any scenario, and the training of those agencies, as well as the DHS agencies, should remain under one committee that can provide a unified, balanced approach.

With respect to ODP, under any scenario, the vast majority of grants to state and local law enforcement agencies will be made through the Office of Justice Programs and that Office will remain with the Committee on the Judiciary. It makes no sense to split off one grantmaking office, ODP, and give it to another committee. Again, we need a balanced, unified approach in this area.

V. DHS CAN FUNCTION EFFECTIVELY WHILE REPORTING TO MORE THAN ONE COMMITTEE OF JURISDICTION

Some argue that DHS cannot function effectively if it must report to multiple committees. I disagree for a variety of reasons. First, DHS reports to several committees now, and while there is always room for improvement, it is functioning effectively now.

Second, every agency reports to at least four committees: a House authorizing committee, a House appropriations committee, a Senate authorizing committee, and a Senate appropriations committee. Despite this, most of our agencies function effectively. Moreover, many existing agencies report to more than one authorizing committee now. For example, the Secret Service and the Bureau of Alcohol, Tobacco, Firearms, and Explosives always reported to the Committee on the Judiciary when they were at the Department of Treasury while the rest of the Department generally reported to the Committee on Ways and Means. The Federal Trade Commission reports to the Committee on Energy and Commerce for its consumer protection mission, but to the Committee on the Judiciary for its antitrust mission. The Commerce Department reports to the Committees on Energy and Commerce, Science, Resources, and the Judiciary. The Energy Department reports to the Committees on Energy and Commerce, Science, and Armed Services. All of these agencies are able to function effectively within these arrangements.

Third, as outlined above, the Committee on the Judiciary and the Select Committee on Homeland Security have already shown an ability to work together effectively on projects of mutual interest. We have already had one joint hearing, and another one will be held tomorrow. We are currently working together on first responder legislation. Regardless of how this matter is resolved, if there is a Committee on Homeland Security, either select or permanent, I expect this working relationship to continue. In short, DHS is functioning effectively under the current committee system, and it can continue to do so in the future.

VI. CONCLUSION

I believe that the proponents of a Committee on Homeland Security, select or permanent, in future Congresses have the burden of proof, and to date, they have not carried it. However that question is resolved, I emphatically believe that with the Committee on the Judiciary should retain jurisdiction over all the matters that it now has. We have the experience and the expertise. Over the years, we have shown the ability to apply the unified, balanced approach that these issues require. For those reasons, I believe we should retain our jurisdiction over these matters.

Mr. DIAZ-BALART. Mr. Chairman, in your testimony you talk about what you consider to be Federal law enforcement agencies, the Legacy agencies of Customs and INS now, and the Customs and Border Protection and the immigration and enforcement—the citizenship and the immigration services, the Legacy agencies and the TSA and the FPS, which is the Federal Protective Service and the Coast Guard.

However, the Department of Homeland Security and its agencies are not just solely law enforcement agencies. Rather, as the act itself describes, these agencies must work to prevent terrorist attacks and reduce the Nation's vulnerability to terrorism. These agencies have a much broader mission than just law enforcement.

Are you arguing that, for example, on the Customs, Border Protection and the ICE are actually law enforcement agencies and therefore you should have sole jurisdiction over those agencies because you have jurisdiction over the Federal law enforcement?

Mr. SENSENBRENNER. Certain functions of the Customs Service have always been under the jurisdiction of the Judiciary Committee, and certain functions have not. My testimony argues in favor of keeping the existing arrangement as it is. We on the Judiciary Committee don't want to deal with the enforcement of the tax laws or the tariff laws. The Ways and Means Committee has had jurisdiction over that. But in terms of the actual arrest of people

who are smuggling, Judiciary has had jurisdiction and done oversight over that, and I think it should remain that way.

Similarly, we have had general jurisdiction over the INS and its successor agencies.

I don't think you can separate some enforcement functions from some service functions. The people who check passports at the ports of entry don't actually enforce a law until they think that somebody is trying to break the immigration laws. On the other hand, what types of visas there are that are stamped in those passports and presented to immigration inspectors at the ports of entry, is a part of the immigration jurisdiction that has nothing to do with law enforcement. It has something to do with terrorism.

But to put whether or not applicants for visas ought to be interviewed and put that in one committee while putting the underlying law on who qualifies for a visa in another committee would make no sense. In terms of doing the oversight, too many cooks will spoil the broth.

Mr. DIAZ-BALART. Ms. Slaughter.

Ms. SLAUGHTER. Mr. Sensenbrenner, I don't have any questions. Thank you. I appreciate your testimony. It was most enlightening. Thank you.

Mr. DIAZ-BALART. Chairman Cox.

Mr. COX. Thank you. I wanted to be sure to be here so I could on the public record thank the chairman of the Judiciary Committee for the extraordinary working relationship that the Judiciary Committee has established with the Select Committee during the 108th Congress. I agree with the representation that you have laid before this subcommittee about the volume and quality of work that the Judiciary Committee has done and about the importance of maintaining the Judiciary Committee's central roles in each of these areas of expertise, because so much of it is irreplaceable and simply couldn't be replicated from scratch or otherwise we would attempt to do so.

Prior to your arriving, I had the opportunity to make a point with other chairmen about my concern, first for the importance of the mission of the Department of Homeland Security, which is protecting us all from annihilation at the hands of terrorists, but, derivative of that, the importance of keeping the Department of Homeland Security focused on its mission. I believe there is an opportunity for the Department of Homeland Security to be distracted from that mission by either expanding its current role beyond what it already is with respect to many parts of our social life in America, or by essentially taking on other functions that follow from Congress having put more in the Department, perhaps, than was necessary strictly for purposes of fighting terrorism.

So I think that defining the mission of the Department and specifically defining homeland security, something Chairman Goss mentioned in his testimony, is just as important as our allocation of responsibility within the Congress.

To the extent that we lose sight of the essential mission of homeland security in the Department, we are going to create even more overlap and conflicts among standing committees of jurisdiction here in the Congress.

Conversely, if we have a good, clear, sharp focus in the Department of Homeland Security, what we are trying to accomplish there, the basis for creating that new Department, then we will have fewer conflicts as we try to oversee that Department here in the Congress.

I also want to congratulate the Judiciary Committee and your leadership of it, Mr. Sensenbrenner, for your emphasis on the importance of and authorization process for the Department of Justice. It is one of the major responsibilities of Judiciary, and it is one of the reasons I think that a homeland security committee could meet the burden that you place before it of helping make the country safer and of keeping the Department of Homeland Security focused on its mission.

I think there needs to be a committee whose primary responsibility it is to look after what is the biggest reorganization of our Federal Government since the creation of the Department of Defense, but I take very, very seriously and understand very clearly the caveats that you have laid out about duplication of jurisdiction. You are absolutely right that every committee has—pardon me—every Cabinet department has at least four committees that it has to report to. The problem that we have with Homeland Security is that number is up to 88, and it needs some simplification.

I think that what we could best benefit from at this point, in addition to your testimony, which has been very clear and helpful, is perhaps the help of the professional staff, unless you care to answer it off the cuff, on a question of the Homeland Security Act itself. Because at least in this Congress that lies within the oversight of jurisdiction of this Select Committee. I would ask specifically which things that have been tentatively placed by the Congress within the jurisdiction of the Department of Homeland Security do you think should be excised, if any, and if you are so inclined, are there things that were left out of the Homeland Security Department thank you ought to have gone in?

Mr. SENSENBRENNER. Well, let me say, first of all, Mr. Chairman, that I appreciate your comments about the work the Judiciary Committee has done. And it is not just the chairman. It is all the members of the committee and the staff.

To answer your question specifically about whether we need to make changes in the Homeland Security Department creation act, I think it is too early to say. It has been a major reorganization of government agencies. I think the Department has been slower in getting up and running than all of us had hoped when it was created.

The best example, I think, is the fiasco of the first responder grants. There is over $5 billion in the pipeline and our first responders are waiting to get that money to do what that money is supposed to do in terms of training and equipment and making us better able to respond to a terrorist strike.

I don't think that there is a problem in the law on this. I think there is a problem in the implementation of the law, and this is perhaps where the Homeland Security Committee can do a good job in doing oversight and getting on the back of those who have caused this backlog and to get the money flowing as the Congress intended it to do.

As you know, I do believe that authorization bills ought to be passed. The DOJ authorization bill that the President signed in November of 2002 after being passed by a voice vote in both Houses was the first DOJ reauthorization in 23 years. We have another one out of the committee, and I hope to have that on the floor relatively soon. We have still got some rough edges to negotiate out, but I intend to continue doing this.

Finally, I was present for the tail end of the testimony of the representatives from the Transportation and Infrastructure Committee where they talked about biometrics in travel documents, specifically U.S. passports and visas. That was a part of the Visa and Border Security Act which the Judiciary Committee wrote, which was unanimously passed in both Houses and signed by the President May of 2002. The State Department was given some deadlines on this. They don't like them, and we will be hearing from the Secretary of State and I believe Secretary Ridge after the Easter break on why they need more time to get this done.

I can tell you that with the U.S. VISIT program, with the pictures and the fingerprint scans, within the first month when visa holders were required to do that, there were 30 people against whom criminal warrants were pending that tried to get into the United States using forged travel documents that were apprehended, and 6 of those 30 were wanted for murder. So the Visa and Border Security Act I think is not only making our borders more secure, but finding some people that law enforcement has been looking for for a while.

Mr. COX. Thank you, Mr. Chairman.

Mr. DIAZ-BALART. Thank you.

Chairman Sensenbrenner, as always, your testimony has been very impressive.

Mr. SENSENBRENNER. Thank you.

Mr. DIAZ-BALART. I want to add my commendation to the work of your committee, because it is not only evident but it is well known and it is important, and so I simply wanted to add my commendation.

Mr. SENSENBRENNER. Thank you.

Ms. SLAUGHTER. No comment. I am going to ask Zoe Lofgren, Mr. Sensenbrenner, if she has bet all the props.

Mr. SENSENBRENNER. Well, I will put on the record that I have. But even though I presided over most of that or made the request, these reports in particular, Representative Slaughter, have really given the bureaucracy their marching orders on where things are wrong and how to correct them. No executive branch agency likes oversight being done, regardless of who is the President, who is the Secretary, and who is in Congress, but I think the framers made our oversight functions as important as giving us the power of the purse, because if the agencies don't spend the money we give them, wisely and appropriately, then egg is on our face as well as theirs.

Mr. DIAZ-BALART. Thank you very much. We are waiting for the chairman of the Ways and Means committee.

Mr. DIAZ-BALART. Welcome the chairman of the Ways and Means committee, Mr. omas, my good friend. Thank you for being here this afternoon, and we look forward to your testimony.

Mr. THOMAS. Thank you, Mr.Chairman. I would ask unanimous consent that my written testimony be made a part of the record.

Mr. DIAZ-BALART. Without objection, so ordered.

**STATEMENT OF THE HONORABLE WILLIAM M. THOMAS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA, AND CHAIRMAN, COMMITTEE ON WAYS AND MEANS**

Mr. THOMAS. Just briefly to comment on the question in front of us. Many of us are on committees. I have the privilege of chairing the Ways and Means committee, which is the oldest committee. One of the first functions established by the government, as you might guess, was the Customs Service to be able to raise revenue to run the country.

As the economy of the world has gotten more complex, the job of Customs has become more complex. I find it rather interesting at this point in the country's history that we have gone through—oh, just pick it up from the Civil War period—the Civil War, Spanish American war, World War I, World War II, the Korean War, the Vietnamese war, and no one ever thought of the restructuring as we are talking about doing today.

I agree that the threat to national security is somewhat unique versus those earlier historical periods, but these sorts of threats—not to diminish the threat—tend to be cyclical or periodic, and I am a little concerned that we are talking about a fundamental restructuring not only of the committees of jurisdiction perhaps, because all we do is monitor what the executive branch does to a very great extent, but the way in which duties that have been developed over two centuries would be mixed and handled.

I will say that we were as cooperative as I think we could have been in trying to merge the commercial concerns that run through the executive department of the Treasury with the genuine concern that our border security was threatened because you had a number of different individuals performing distinct and different duties at the border without overall coordination.

What has occurred in terms of the coordination of activities at the border I think was overdue, and it probably took a crisis such as this to require the rethinking and the integration of those border duties.

I just have to tell you that the period in which we have negotiated with the homeland security structure has been one that I fully anticipated. That is, when your primary title is security, you make decisions differently than beings who are in the process of attempting to facilitate commercial intercourse and have been doing it for several hundred years. The question of whether or not a potential threat to, say, a port or an airport would require it to be shut down oftentimes is on the teeter-totter between public security and freedom. Those people who have security in their title hastily move to make sure that the place is secure.

You will recall around the Capitol that if we had no movement whatsoever, our security would be much higher. In discussing with the Sergeant At Arms and others, I said, well, gee, if we were never here, we would be even more secure, so that if we weren't here and we did nothing, we would have maximum security. The problem is we wouldn't get much done.

So this relationship is one that will always be in need of observation, oversight and adjustment.

We had a period where seniors in this country had a number of needs that weren't being met. We had some Federal programs for them, but many of their real needs weren't being met. The House in its wisdom created a committee called the Committee on Aging. It had no legislative jurisdiction, but it had the ability to focus concerns about a distinct group, seniors, so that the committees of jurisdiction could carry out changes in the law in a more coordinated way through the general observations of the Committee on Aging; and I think the Committee on Homeland Security would be a similar structure if it were to work most successfully.

The idea of focusing on security and having that as your primary concern, not even necessarily having the ability to legislate in the area but the ability to coordinate those efforts with those committees of jurisdiction, I think would make some sense.

You are always going to have a bit of edge and conflict where security wants to trump the legitimate other functions, but having an understanding and a need to continue to coordinate is I think a very useful and necessary role that the Committee on Homeland Security could perform. I don't know that you necessarily have to have a jurisdictional structure. I don't know that you necessarily have to have the legislative capability. What you need is the focus on a problem by virtue of the committee's name "Homeland Security" and the need to maintain coordination among those other committees of jurisdiction.

So I come down on the side of I think it was overdue. I think what we have done was a useful and needed step. I would be very concerned if we created a Committee of Homeland Security and gave them control from a security point of view of all of the key points of commerce, not just on our borders but internally, because I know the decision that would be made more often than not, the answer would be to stop, slow down, shut down commerce that is necessary.

So the function could be one of coordination, of concern, of observation, of assistance, but I would be strongly opposed to a committee that was created with jurisdiction in ways that would interfere with a structure that has been successful through a number of other threats to our security and has worked marvelously in coordinating those activities over the last 200 years of the Customs office and duty and service.

Mr. DIAZ-BALART. Thank you, Mr. Chairman.

PREPARED STATEMENT OF THE HONORABLE WILLIAM M. THOMAS
TESTIMONY OF BILL THOMAS

Chairman Diaz-Balart, Ranking Member Slaughter, and Subcommittee members, thank you for inviting me to testify on the role of the Select Committee.

The Committee on Ways & Means has oversight responsibilities over all functions relating to customs and customs administration, including tariffs and import fees, classification, valuation, special rules for imports, and special tariff provisions and procedures. These functions cover most of the Bureau of Customs and Border Protection (CBP) and a substantial part of the Bureau of Immigration and Customs Enforcement (ICE) of the Department of Homeland Security (DHS).

The oversight of the Committee on Ways & Means has a long history. The Customs Service was the first agency of the federal government to be created over 220 years ago to collect revenue and to ensure that imports flow smoothly across the border. Today, Customs collects more than $20 billion in revenue each year.

Over the years, Customs has taken on many other functions because of its unique border presence. Fighting against illegal drugs, transshipped t-shirts, and Rolex knockoffs are just a few of these other functions. In the wake of the terrorist attacks on the United States, the role of Customs in guarding our borders against chemical, biological, and conventional weapons has become more prominent.

While I supported the creation of the new Department, I was concerned that this move could damage the critical trade function of Customs. To address those concerns, I worked with many of you, Mr. Rangel, the Administration, and the Senate to transfer customs functions to the new department but, at the same time, to maintain statutory revenue authority within Treasury and to prohibit consolidation, discontinuation, or diminishing of customs functions, resources, or staffing.

It is my understanding that this arrangement has functioned fairly smoothly, but I believe that continued oversight by the Committee on Ways & Means is necessary to constantly reinforce the importance of trade functions. Consider this example: At a recent briefing, the Bureau of Customs and Border Protection presented us with its mission statement. The first three bullet points were entirely devoted to security. Trade concerns were not mentioned until the *fourth* point, and even there, the focus was on enforcing laws rather than facilitating trade, stating "We steadfastly enforce the laws of the United States while fostering our nation's economic security through lawful international trade and travel."

I know it is only natural that when a Department's central mission is homeland security, the agencies of that Department will be judged on their ability to support that central mission and will shift their focus accordingly. However, with international trade comprising nearly 25% of our gross domestic product, CBP's mission to move goods across the border in a smooth, efficient, and predictable manner cannot be accorded a mere minor role—instead, it is a vital part of our economic strength and viability. For that reason, continued active oversight by Ways & Means is essential.

Oversight by Ways & Means is also important for reasons of competency. The tremendous range of functions that the border agency performs requires enormous technical expertise not only of the customs officials themselves, but also within Ways & Means. Relying on our expertise, we have exercised considerable oversight on customs matters since the Customs Service was incorporated into DHS, such as:

- Coordination with the Administration to draft an Executive Order giving the Homeland Security Department general authority over Customs revenue functions but allowing the Treasury Department to retain final authority over regulations concerning Customs revenue functions, and the authority to review, modify, or revoke specified determinations or rulings.
- Markup and passage of the Miscellaneous Trade and Technical Corrections Act, legislation which makes significant changes to certain Customs rules.
- Passage of legislation to temporarily extend customs user fees, and examination of whether the level of such fees is commensurate with the level of services provided. Tracking the user fees in the new Department to ensure that they are used for commercial functions is required by our World Trade Organization obligations.
- Passage of legislation addressing textile transshipment, including allocation of funding for 70 new positions, travel, training, and outreach, and a GAO audit of textile transshipment monitoring.
- Oversight of highly technical customs classification decisions, based on the over 800-page Harmonized Tariff Schedule.
- Oversight of the development of the Automated Commercial Environment, which is designed to fully automate the process of moving goods across the border, a massive undertaking that will not be completed until 2007. The General Accounting Office has issued over a dozen reports on various aspects of this system.
- Finally, the Committee plans to hold a hearing on Customs-related issues in the spring in preparation for our legislation to reauthorize Customs functions.

The Select Committee on Homeland Security has been a useful coordinator of the efforts and oversight of the many committees that have some role in the Department of Homeland Security and can continue to play an important coordinating role with respect to the work of these committees. However, oversight over the customs functions performed by the Bureau of Customs and Border Protection and the Bureau of Immigration and Customs Enforcement should remain with Ways and Means as the Committee with jurisdiction over the underlying laws. Accordingly, I support making the Select Committee permanent only if we are assured that the ability of Ways & Means to carry out its customs oversight functions would not be jeopardized. The focus of the Select Committee on Homeland Security has, quite appropriately, been on security issues and not the perhaps more mundane, but still critical, trade and revenue functions. We provide that expertise and oversight.

Mr. DIAZ-BALART. You say in your written testimony that you also appreciate—you state that you would support a permanent Committee on Homeland Security as long as the Ways and Means Committee could retain the facility to carry out its Customs functions.

I guess what I would seek from you is a clarification on what you consider Customs oversight functions and what—if you could give us some specificity, some specific roles that you would envision for a permanent homeland security committee in those areas.

Mr. THOMAS. Well, obviously, if I envision a permanent homeland security committee but not with the jurisdiction of Ways and Means, and every other committee that had jurisdiction asserted the same thing, what you would create would be a committee that had the theme, much like the Committee on Aging, of homeland security. That would be their focus, and they would be working on coordinating to make sure that things worked.

I would be very concerned if you created a committee of homeland security with jurisdiction and you provided the Customs duties to that committee, moving them out from under Treasury, in which the committee makes a decision and has the total capability of making a decision of shutting down a port because there was a telephone call and the port was shut down for 4 days and the argument was that it was for national security. It would have a devastating effect on the economy of this country if that were the way in which decisions were to be made.

So I am very concerned about losing the knowledge and the ability in a continually growing, complicated area of intercourse. It is not bright-lighted. It is not a big area, but, boy, is it necessary to function smoothly as the world's largest importer and the world's largest exporter. The point at which those activities occur have to be allowed to go forward in a very smooth and efficient manner, with the full understanding of the concerns of security today different than previously, that we are more than willing to take into consideration on a negotiated basis with Treasury retaining the structure that it has, with the ability to consult and make adjustments. That is where we are today. That arrangement seems reasonable to me.

But if the option of a permanent committee on homeland security is to take jurisdiction from other committees and put it together under the rubric of security and expect, for example, the Customs fees and duty collection function to continue would be rather naive. They would be submitted to security restrictions which I think would make it virtually impossible for them to do their historic job.

Mr. DIAZ-BALART. Ms. Slaughter.

Ms. SLAUGHTER. Mr. Thomas, I have no questions, but thank you very much for very interesting testimony. I appreciate both hearing it and reading it. Thank you very much.

Mr. THOMAS. Thank you.

Mr. DIAZ-BALART. Thank you, Chairman Thomas. Thank you very much.

The hearing record will remain open for 10 days to allow for additional testimony and questions. I thank all of the members who sat through the questions, of course all those who testified, and at this point we hereby are ending—I hereby end this hearing.

[Whereupon, at 5:35 p.m., the subcommittee was adjourned.]

ADDITIONAL PREPARED STATEMENTS

THE HONORABLE SHERWOOD BOEHLERT, CHAIRMAN, OF THE COMMITTEE ON SCIENCE

Mr. Chairman and Members of the Subcommittee:

I appreciate the opportunity to testify before you today. The Science Committee played a central role in the creation of the Department of Homeland Security (DHS), and we have vigorously exercised our oversight since its creation.

The Science Committee contributed to every title of the Homeland Act, but we are especially proud of having created the Science and Technology Directorate—an entity that was missing from the President's original proposal—and most of the language in Title III came directly from the legislation reported by our Committee. We also wrote the language in Title III creating the Homeland Security Advanced Research Projects Agency, which was added after the House passed its initial version of the bill.

We have actively overseen the new Department, paying special attention to the Science and Technology Directorate, cybersecurity, programs for firefighters and visas for scientists. Some of our Committee staff are dedicated almost exclusively to overseeing the Department, and we have had numerous hearings on, and including, the Department. For example, at our annual full Committee hearing that looks at proposed R&D spending across the Federal Government, Under Secretary Chuck McQueary is one of our witnesses.

We have worked closely with Chairman Thornberry's subcommittee on your Select Committee, and our staffs have frequently met jointly with Homeland officials. We have discussed holding joint hearings.

So it is without any animosity and with the utmost respect for the Select Committee that I turn to the primary questions you have posed to me. And I hope no one will take any offense at the directness of my answers.

I do not believe the House needs a committee devoted exclusively to Homeland Security. In fact, I believe that such a committee is likely to prove counter-productive. Let me explain why.

First, I think that Republicans are rightly proud that we reduced the size of House staffs and the number of Committees when we became the majority. Since 1995, we've recognized the need for some increases, but creating a new Committee would be a wholesale reversal. At a time of budget deficits and spending freezes, this seems unwise.

It seems especially unwise because there is no demonstrated need for a permanent committee. There are two opposing sets of arguments for such a committee—the first is that the existing committees won't give homeland security the attention it deserves, and the second is that the existing committees will pay too much attention, thereby tying down the new Department, like Gulliver, with 88 Lilliputian subcommittees.

Both of these seem plausible in theory—even though they're contradictory—but neither has proven to be the case in fact. Standing Committees, like ours, have exercised rigorous oversight without having tied down the Department with conflicting demands. Moreover, there are ways to deal with "turf issues" without creating a new Committee, which I'll get to in a moment or so.

But the main reason not to create a permanent Homeland Committee is that it will impede, not assist, proper Congressional oversight. How could that be? Well, in at least two ways.

First, homeland security is not a single task, but a collection of tasks—and each task needs to be looked at in the context of how the Federal Government as a whole is carrying out that job. For example, we can't evaluate what the Homeland Department is doing in science and technology without a full understanding of what the Federal Government as a whole is doing in that area. The same is true for transportation, emergency response, cybersecurity, indeed for each and every responsibility of the Department—and even more so for DHS responsibilities unrelated to its homeland mandate. The only way to properly oversee DHS is through the standing Committees that have the government-wide purview and expertise to assess the Department's work in context.

Second, it's an unfortunate fact of institutional life that Committees can tend to become captives of the agencies they oversee. This would be especially unfortunate in the case of DHS, which we gave unusual latitude in the Homeland Act. A Committee whose entire existence depends on a single Department is more likely to become a captive of that Department. Congress is much more likely to rigorously exer-

cise its oversight of DHS if we do so through a variety of Committees, none of whose existence depends solely on DHS.

But then how to prevent a hopeless proliferation of Committees pestering DHS? There are many options, but I would suggest giving primary legislative jurisdiction over each directorate of DHS to the appropriate standing Committee and having the Committee on Government Reform exercise its traditional jurisdiction across the agency.

Such a system would be clear and would save DHS from Congressional chaos—while still subjecting the Department to strong oversight by Committees with broad expertise in the department's functions. There may be other ways to achieve that goal, but a permanent Homeland committee is not one of them.

Let me close by saying that I know that any testimony by any chairman against a new Committee can be dismissed as petty turf fighting. I hope the arguments I've made today make clear that protecting turf is not my motivation.

And I would point out that with term limits, testifying on the basis of turf is especially pointless. Chairs only have their turf for a relatively short period of time; we're talking here about changing Congress for years to come.

Finally, I would say that in the writing of the Homeland Act and in overseeing the DHS, the House has been remarkably, even uncharacteristically, free of turf battles. That's a tribute to the Committees and especially to the Leadership. I think a sensible system of DHS oversight can continue that peaceable and collegial situation. A new permanent Committee is more likely to create turf battles than prevent them.

I urge this Subcommittee to take these arguments seriously. I would be happy to answer any questions.

## THE HONORABLE BART GORDON, RANKING MEMBER, OF THE COMMITTEE ON SCIENCE

Thank you for inviting me to testify regarding changes to Rule X and the future of the Select Committee. The growing pains of the Department have been echoed to a lesser degree by some of the experiences of the Select Committee. That is understandable. Growing a Committee from scratch is an appreciably difficult task. I think that Chairman Cox and Ranking Member Turner have done an excellent job at their core task of keeping track of the progress the new Department has made in establishing itself and carrying out the terms of the law creating the Department. All of the Members and staff of the Select Committee are to be congratulated.

Now we begin to wrestle with the tough question of how we go forward as an institution. It seems to me that the core rationale for the creation of the Select Committee—oversight of the messy and tumultuous process of bringing a new department into being—is eroding by the day. Beyond that core rationale, there seems to be one central argument for keeping the Select Committee: it will enhance the efficiency of the workings of the House. I believe that claim is based on a faulty understanding of the House, its Committee structure and operations. In fact, I think the effect of maintaining the Select Committee would have a generally deleterious effect on the House for reasons that I will elaborate upon.

My testimony is informed by having been a Member of Congress for twenty years, and from sitting on two Committees that share jurisdiction with the Homeland Security Committee. I can say from experience that the Homeland Security-related jurisdiction of both the Commerce Committee and the Science Committee, where I have the honor of being the Ranking Minority Member, can be more than adequately covered by those Standing Committees.

In fact, both Committees have been active in tending to their oversight responsibilities related to Homeland Security. I believe they would be even more active in the future were the Select Committee not in place.

The jurisdiction of the Science Committee involves the work of the Under Secretary for Research and Development. The creation of that office, and the entire R&D title of the organic act, was the product of the Committee on Science. Those provisions were not in the original proposal that came from the White House, but were added by my Committee under the leadership of Chairman Boehlert. Mr. Armey and Ms. Pelosi both endorsed retaining those elements in the final bill. It is hard to imagine a more fundamental argument for jurisdiction, or competence to cover it, than the fact that we created the organic language based on our own Committee's expertise in the area.

The core logic for creating the Select Committee was the need for specific, ongoing attention to the Executive as the new Department was brought together. That process is well underway now so the logic for the Select Committee begins to slip

away. The standing Committees are more than capable of handling, as they have continued to oversee, the activities of this newest established Department.

But one also hears that even with the Department becoming established, the need for the Select Committee continues. The core claim is that the Select Committee will enhance the efficiency of the House. This is a curious claim. There is only one condition under which maintaining the Select Committee might enhance our efficiency—that being that all other standing Committees be stripped of their legislative and oversight jurisdiction over Homeland Security. I will return to why such a step would be a folly, but will first address what inefficiencies attach to keeping the Select Committee without stripping all other Committees of their jurisdiction.

The first flavor of an efficiency argument is that having the Select Committee will enhance the House's ability to handle authorizing legislation. This is an ill-considered argument. Simply designating a lead Committee from among the standing Committees is a perfectly reasonable solution. That is the solution the Senate settled upon. The Senate's reaction to the creation of the Department was to designate the Government Affairs Committee as the lead for handling legislation related to the Department, but standing Committees retained their discrete expertise and responsibilities. Any legislation coming out of the House that hopes to survive the Senate process will have to take that into account.

Further, the underlying premise of those who worry about the need for a lead Committee is that we will move reauthorizations for the entire Department all in one move. The huge, multi-function, multi-Committee bill that created the agency is unlikely to be repeated in future authorizations for a variety of reasons, not least of which will be the need to give somewhat more frequent legal guidance to this emerging agency and the difficulty of negotiating such a huge package either through the House Committee process or, just as importantly, the Senate Committees of jurisdiction.

My own suspicion is that the authorizations we move will be more along functional or sub-agency lines. The current standing Committee's with their legislative jurisdictions will be more than adequate for handling such legislation. I can imagine an R&D authorization that could move as a stand-alone bill; or a customs piece or an immigration service piece; or a coast guard authorization. Such targeted authorizations seem a far more reasonable expectation for future legislation than an Omnibus authorization.

If we do need to do a more sweeping authorization, the Speaker has plenty of tools to deal with the current overlapping jurisdictions. In such an event, it would be easy enough to adopt the Senate model and designate one Committee as the lead and let other Committees get referrals as their jurisdiction is engaged. This is how we handle all major pieces of authorization. Frankly, unless Rule X is amended to strip all the Standing Committees of their legislative responsibilities for the functions that have been rolled into the new Department, this is what would happen if the Select Committee was made permanent and given legislative authority. Such a step would add one more Committee to the mix for referrals—the very opposite of the stated goal of achieving efficiencies.

Another argument for the need to have a Select Committee rests on the claim that such a Committee will streamline the oversight process on the Hill. This is usually attached to some claim that the Department has to answer to dozens upon dozens of Committees and Subcommittees of the House and Senate. It always baffles me, absent stripping the Standing Committees of their jurisdictions, how adding a Committee and its requisite Subcommittees would do anything but inflate the number of Committees with jurisdiction; a counterintuitive outcome to the claim that the Select Committee represents an efficiency enhancement.

Further, the notion that an agency answers to multiple Committees as an unnecessary burden on both the Executive and Congress always confuses me. The Science Committee in the House shares jurisdiction with at least 8 other House Committees on Energy Department issues. Other Committees, such as International Relations or the Permanent Select Committee on Intelligence may also have reason to take testimony from the Department of Energy. There is a similar array of Committees in the Senate with some claim on the Department. Yet in his over 3 years in office, Secretary Abraham has only come to the Hill 27 times since his confirmation hearing. I can only recall the Secretary appearing before the Science Committee on one occasion, and on that occasion he was testifying in support of the President's energy initiative. It doesn't seem to me as if these multiple, overlapping jurisdictions are creating an unnecessary burden on the leadership of the Department of Energy, nor do I expect it would for the Department of Homeland Security.

Let me return to the one method by which retaining the Select Committee could lead to a streamlining of work for the House, that is: through a complete re-writing of Rule X to center all legislative and oversight responsibility in the hands of this

one Committee. I don't believe anyone is advocating this, and the problems with such a step are probably manifest to all. However, I seriously believe that is the only way to gain any "efficiency".

If we strip the standing Committees of their legislative and oversight responsibilities efficiency will be purchased at the price of sacrificing our existing expertise. That expertise resides in the Standing Committees. The Department was not made of whole cloth. It is instead largely a bundle of pre-existing agencies and programs brought together because they broadly share in the mission of protecting our borders. The Committees of the House have generally overseen those programs from Administration to Administration stretching back over long years. Expertise on the programs at the Department of Homeland Security resides today in the same Committees that helped in the creation of that Department, and it would be foolhardy to diminish their role in the future work of the Department.

The whole philosophy of organizing the House into Committees of jurisdiction rests upon a belief that the activities of the Executive, and the challenges to our nation, are so diverse that we must develop very specific expertise to be an effective partner and watchdog of the Executive. Members serve on just a few Committees in their tenure in the House, no matter how long, and the professional staffs of those Committees largely stay on with each change in Chairman or Ranking Member because the institutional knowledge that resides in the staff is indispensable to the House in carrying out our Constitutional functions. To strip standing Committees of their jurisdiction in pursuit of some chimera of efficiency would undercut the source of strength that resides in the Committee structure.

There is another, more philosophical objection to the pursuit of efficiency by the House. In the debate surrounding the proposed Constitution, the Federalists clearly viewed efficiency, energy, action as an attribute to be attached to the Executive. However, the legislature was to be a deliberative body designed to examine, challenge, consider.

In Federalist #70, Alexander Hamilton directly addresses these differing natures. As to the legislature, he wrote, "(P)romptitude of decision is oftener an evil than a benefit. The differences of opinion, and the jarring of parties in that department of the government, though they may sometimes obstruct salutary plans, yet often promote deliberation and circumspection, and serve to check excesses in the majority (**The Federalist Papers,** edited by Clinton Rossiter, p. 427)."

It is against the nature of the House, against the intent for how we should conduct business, that we pursue "efficiency" as an over-riding goal in how we organize our business. I would argue that clear lines of legislative jurisdiction for the Standing Committees, and clear guidance from the Speaker, will be more than adequate efficiency when it comes to moving legislation. When it comes to oversight, I think a little obscurity is a good thing to create a sense of competition among the Committees in examining the workings of the Department, challenging the claims that come up to us and in asking hard questions. More oversight is better than less oversight, and you purchase that through the "inefficiency" of multiple Committees having a stake in the Department's operation.

This last observation opens the door to the possibility that a Select Committee for Homeland Security limited to oversight alone might be an enhancement of the powers of the House. After all, it would add one more Committee into the mix that could watch the Executive in this very important area. I truly believe that the current array of Standing Committees is more than adequate to create an environment for aggressive oversight if Congress is of a mind to engage in that duty. If Congress is not interested in carrying out that function, no number of Committees, no matter how large, will be sufficient to spur the work forward.

I thank the Subcommittee for considering my testimony and your time.

THE HONORABLE HENRY J. HYDE, CHAIRMAN, AND THE HONORABLE TOM LANTOS, RANKING MEMBER, OF THE COMMITTEE ON INTERNATIONAL RELATIONS

Thank you Mr. Chairman. We appreciate your accepting this statement for consideration by the Subcommittee on Rules.

Mr. Chairman, as you know, the legislation creating the Department of Homeland Security has created a major reorganization of the U.S. Government. When that legislation came before the Committee on International Relations, however, the Committee had only a relatively small aspect of that reorganization: the relationship between the Department of State and the Secretary of Homeland Security.

Mr. Chairman, the immigration function, prior to the creation of the Department of Homeland Security, was shared between the Department of State's consular service and the Department of Justice's Immigration and Naturalization Service. The

Committee on International Relations was regularly involved in overseeing the activities of the Consular Affairs Bureau at the Department of State and providing authorities and authorization of its activities, such as the application of visa policy implementation of programs related to international abductions of U.S. children and the implementation of the Hague Convention on Inter-Country Adoption.

The International Relations Committee was also involved in decisions regarding the designation by the Secretary of State of Foreign Terrorist Organizations (FTO5), a provision contained in the Immigration and Nationality Act (INA), and the impact of such designations on other areas of international affairs legislation, such as prohibitions on dual-use exports to FTOs and on U.S. assistance. In addition, there are a number of other immigration-related authorities committed to the Secretary of State by the 1NA. The Committee conducted oversight over virtually all these areas. In this context we worked closely with the Judiciary Committee on these matters, particularly where there was joint jurisdiction.

The "Homeland Security Act of 2002" continues to provide for substantial authority within the Department of State. Under that Act, the Secretary of Homeland Security has authority over visa policy, has the authority to refuse visas, and can develop training programs for consular officers. In addition, the "Homeland Security Act of 2002" maintained certain immigration authorities exclusively under the Secretary of State and kept the Bureau of Consular Affairs and all overseas consular officers in the Department of State.

In this context, the Committee on International Relations maintains a significant interest in the continued oversight of these activities. In addition to any number of briefings and hearings in these areas since the enactment of that statute, the Committee has exercised legislative jurisdiction over a number of consular issues, particularly through the "Foreign Relations Authorization Act for Fiscal Years 2004 and 2005." We continue to have an abiding interest and expertise in all the issues that we described above relating to the Department of State.

We would oppose any effort to transfer jurisdiction over the Bureau of Consular Affairs or the Committee's role in the Secretary's authority over immigration activities to any other committee, whether it to be a new standing committee on homeland security or to any other standing committee.Assuming that such a transfer does not happen, when it comes to the question of amending Rule X of the House to create such a standing committee, the Committee on International Relations could undoubtedly adapt to such a new situation. If such a committee is created and includes jurisdiction over the immigration function, we are sure that the Committee could work with a new standing committee in a way similar to how it works with the Judiciary Committee. If such a committee was created through an amendment to Rule X, we would also strongly recommend that, in order to clarify the relationship between the two committees, the jurisdiction of the Committee on International Relations should be clarified by specifically adding "the Department of State" to the matters for which the Committee on International Relations is responsible.

We are cognizant of the many competing concerns which must be weighed in the course of this study of the future of the Select Committee on Homeland Security. The primary consideration should be to establish the most efficient oversight, investigative, and legislative processes. However, we would be remiss if we did not raise some concerns regarding the creation of a new standing committee on the basis of efficiency. There is, of course, logic in centralizing all oversight of the new Department in one committee, an effort which would have obvious benefits. We need to recognize, however, that currently the several committees that have jurisdiction over the Department of Homeland Security have a wide range of highly-skilled and experienced members and staff who have developed real expertise in the particular areas under their jurisdiction, including immigration, customs, safety of life at sea and other functions which now reside in Department.

The creation of a standing committee with new members and staff risks losing this valuable expertise. Indeed, over the short or medium term, the creation of a single standing committee may actually reduce the ability of the House to properly oversee this new Department just as it continues to face the normal challenges from the reorganization. One option that the Committee may want to consider is postponing the decision to create a new standing committee on homeland security until the beginning of the 0th Congress, giving the current structure two more years to help oversee the Department as it works through these challenges. In any case, careful consideration must be given to finding ways to preserve the current expertise if the creation of a new standing committee is to be given serious consideration.

Thank you, Mr. Chairman.

THE HONORABLE MICHAEL G. OXLEY, CHAIRMAN, AND THE HONORABLE BARNEY FRANK, RANKING MEMBER, OF THE COMMITTEE ON FINANCIAL SERVICES

U.S. HOUSE OF REPRESENTATIVES

COMMITTEE ON FINANCIAL SERVICES

WASHINGTON, DC 20515

March 22, 2004

The Honorable Lincoln Diaz-Balart, Chairman
The Honorable Louise Slaughter, Ranking Member
Subcommittee on Rules
Committee on Homeland Security
2244 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Diaz-Balart and Ranking Member Slaughter:

Thank you for your recent invitation to appear before the Subcommittee on Rules on the effect of the Rules of the House on consideration of homeland security matters. While we will not be appearing before the Subcommittee, we have enclosed our joint written statement on the subject, and would appreciate it being made a part of the hearing record.

Again, we appreciate the invitation to testify, and look forward to working with you as the Subcommittee continues its work. Should you or your staff have any questions, please contact either of us, or Mr. Hugh Halpern of the Majority staff at extension 5–7502, or Mr. Jaime Lizarraga of the Minority staff at extension 5–4247.

Yours truly,

MICHAEL G. OXLEY
Chairman

BARNEY FRANK
Ranking Member

JOINT STATEMENT OF CHAIRMAN MICHAEL G. OXLEY AND RANKING MEMBER BARNEY FRANK BEFORE THE SUBCOMMITTEE ON RULES SELECT COMMITTEE ON HOMELAND SECURITY

MARCH 24, 2004

Chairman Diaz-Balart, Ranking Member Slaughter, and Members of the Subcommittee, we appreciate this opportunity to offer our views on the future of the Select Committee on Homeland Security. Our comments for the Subcommittee will not address the issue of whether the Select Committee should be added to the list of permanent standing committees of the House in the 109th Congress or beyond; rather, they will lay out the important work done by the Committee on Financial Services in the post–9/11 era, and express our view that any changes to Rule X should permit our committee to continue our work on those issues.

THE COMMITTEE ON FINANCIAL SERVICES

Established in the 107th Congress, the Committee on Financial Services represents the latest effort on the part of the House to rationalize Rule X with the evolution of the modern economy. With the passage of Gramm-Leach-Bliley and the ongoing modernization of the financial services industry, the House recognized the need to merge the jurisdiction of the old Committee on Banking and Financial Services with jurisdiction over securities and exchanges and insurance previously exercised by the Committee on Commerce. This combination was intended to better reflect the realities of the marketplace, and we believe that our track record demonstrates the wisdom of that decision.

In the 3 short years since the Committee came into existence, we have been forced to respond to a series of crises which threatened the economic well-being of the Nation. The Committee was only 9 months old when Manhattan was attacked on September 11, 2001. Yet the Committee's oversight and coordination played an important role in ensuring that banks never closed, the money supply was safe, and the

capital markets reopened within days of the attacks, despite many of those markets being based within blocks of Ground Zero.

In the weeks following the attacks, the Committee authored legislation to assist the Department of the Treasury and law enforcement to track and shut off the sources of terrorist financing and to provide a temporary Federal backstop to ensure that businesses could continue to get insurance coverage for acts of terrorism. The most recent piece of financial services legislation responding to the September 11 attacks was enacted last year, ensuring that payments can continue unimpeded, even if the transportation system is crippled.

At the same time, the Committee was forced to respond to a crisis in confidence created by a series of corporate scandals, further undermining the resilience of our capital markets. The Committee responded on several fronts, culminating in enactment of the Sarbanes Oxley Act, and recent work to address abuses found in the mutual fund industry.

All of these activities occurred outside of the Homeland Security Act and the Department of Homeland Security (DHS), yet no one would argue that they were any less important to the long-term security of the Nation, or that they should have occurred in any other venue.

## CREATION OF THE DEPARTMENT OF HOMELAND SECURITY

During the consideration of the legislation to create DHS, Chairman Armey of the first Select Committee solicited the views of the committees of jurisdiction. Chairman Oxley and then-Ranking Member LaFalce submitted their views on HR. 5005, the Homeland Security Act of 2002 (see attachment). In that letter, they identified several agencies either within the jurisdiction of the Committee on Financial services or which have important roles with regard to matters within the Committee's jurisdiction. While the attached letter discusses the programs in more detail, they are briefly described below.

*Federal Emergency Management Agency*

The Federal Emergency Management Agency (FEMA) administers 3 programs which fall under the jurisdiction of the Committee on Financial Services: (1) the National Flood Insurance Program, (2) the Emergency Food and Shelter Program, and (3) the Defense Production Act (DPA). The first 2 programs fall within the Committee's jurisdiction over public and private housing (ci. 1(g)(8), Rule X), and the Committee is explicitly given jurisdiction over defense production (cl. 1(g)(2), Rule X).

While each of these programs is related to FEMA's core mission of preparation, response, and prevention of disasters, they are relatively small elements of the agency's portfolio. For instance, the Emergency Food and Shelter Program places FEMA in a coordination role with charitable third-parties to ensure that food and shelter resources can be dispatched where they are needed most. Similarly, FEMA's role under the Defense Production Act is to coordinate Federal agencies' decisions regarding transportation services and the availability of civil defense resources in times of national emergency, while other agencies such as the Department of Commerce and the Department of Defense implement other aspects of the DPA. The National Flood Insurance Program (NFIP), while wholly administered by FEMA, is a program which permits homeowners to purchase flood insurance, a product private insurers refuse to provide due to problems with the traditional economics of insurance underwriting when applied to flooding. Unlike much of the post disaster aid provided by FEMA, NFIP is a premium-supported system, with the full faith and credit of the United States providing the ultimate backstop. The program's primary purpose is to ensure that home buyers can obtain the insurance demanded by lenders when the property is located within a flood plain.

*United States Secret Service*

While the Secret Service and its activities do not fall directly within the jurisdiction of the Committee on Financial Services, it's origins in the Department of the Treasury and mission have led to its historic close working relationship with this Committee, its predecessors, and other financial regulatory agencies. Since the Secret Service's founding in 1865, it has been the primary protector of the Nation's currency, and has developed extensive expertise in the protection of the Nation's payments system. This mission was expanded with the passage of the Omnibus Crime Control Act (Public Law 98–473) which gave the Service jurisdiction over crimes involving credit cards, identity theft, and computer crime. This jurisdiction was expanded again in 1994 when the Service was given additional jurisdiction to investigate fraud against financial institutions.

## RECENT ACTIVITY IN THE COMMITTEE ON FINANCIAL SERVICES INVOLVING DHS FEMA

*FEMA Programs*

The transfer of FEMA to DHS has not affected the legislative or oversight activities of the Committee on Financial Services. During the last session of the 108th Congress, the Committee reauthorized the Defense Production Act. On March 19, 2003, a witness from DHS appeared alongside witnesses from the Department of Commerce and the Department of Defense at a hearing on reauthorization of the DPA. The Committee reported legislation reauthorizing the DPA on April 2, 2003 (H.R. 1280; H. Rept. 108–56). The DPA was reauthorized through September 30, 2008 with enactment of the companion legislation from the Senate (S. 1608; Public Law 108–195).

Similarly, the Committee reported legislation reforming and reauthorizing the National Flood Insurance Program. The Flood Insurance Reform Act of 2003 (H.R. 253; H. Rept. 108–266) passed the House on November 20, 2003 by a record vote of 352 yeas and 62 nays, and is currently pending in the Senate. The Committee has also had to shepherd a number of short-term extensions of the program in the 108th Congress (See H.R. 11, H.J. Res. 2, H.R. 2555, 5. 1768).

*Secret Service*

While the Committee has not reported legislation giving new responsibilities to the United States Secret Service since its transfer to the Department of Homeland Security, the Committee continues to enjoy a close working relationship with the Secret Service as it oversees the safety and security of the Nation's currency. The Secret Service worked closely with the Treasury Department's Bureau of Engraving and Printing (BEP) in the design of the new $20 bill released last year, and is continuing its work with the redesign of the $50 and $100 bills, scheduled for release in 2004 and early 2005. With the Secret Service on the front lines of the battle against currency counterfeiting, their expertise is essential in the BEP's efforts to design currency which thwarts counterfeiters using increasingly sophisticated and readily-available technology.

## OTHER HOMELAND SECURITY-RELATED ACTIVITIES IN THE 107TH AND 108TH CONGRESSES

One of the primary lessons of the post–9/11 era is that "homeland security" is not a monolithic concept. DHS was designed to be multi-disciplinary, incorporating elements to address border and transportation security, emergency preparedness and response, and critical infrastructure protection. Yet, while DHS is one of the lead agencies in the Nation's fight against terrorism, it does not carry out that fight alone.

One of the key elements in stopping terrorist attacks before they begin and catching the perpetrators in their aftermath is tracking terrorist financing. The Committee has engaged in vigorous oversight of the Department of the Treasury, the lead agency in this effort, as well as all of the other financial regulators to ensure that terrorist financing activities cannot escape detection, and that our financial system is not abused by terrorists.

Similarly, while DHS is the coordinating agency in the protection of the Nation's critical infrastructure, the Department of the Treasury and the other financial regulators, including the Federal Reserve, the Securities and Exchange Commission, the FDIC, and others, have the day-to-day responsibility for securing the payments system and capital markets against all manner of attack. The rapid recovery of the capital markets and limited disruption of the banking and payments system was one of the great success stories from the events of September 11.

The Committee on Financial Services has pursued a legislative and oversight agenda intended to reinforce those elements in the tracking of terrorist financing and protection of our critical financial infrastructure, while seeking improvement in those areas where weaknesses have been found. What follows is a brief description of the Committee's activities in this regard.

*Money Laundering and Tracking Terrorist Financing*

What began as an effort to track the activities of drug traffickers and organized crime has evolved into one of the most essential tools in the war on terrorism. The Committee and its predecessors have held a long-standing interest in the matter, and it has been the subject of legislative and oversight activities since the early–1980's.

Jurisdictionally, money laundering and terrorist financing enforcement efforts fall into two categories: (1) criminal enforcement provisions, which fall within the juris-

diction of the Committee on the Judiciary, and (2) coordination and regulation of activities at financial institutions, securities firms, and other financial intermediaries to track and reduce money laundering, which fall within the jurisdiction of the Committee on Financial Services.

The Department of the Treasury has long been the central coordinating authority in the effort to track and disrupt the money flows to terrorists and criminals. Since the establishment of the Committee on Financial Services in the 107th Congress, it has held a number of hearings on the subject, including:

- Internet gambling and its use as a money laundering conduit (7/11/2001);
- The design and security of the Nation's currency (7/24/2001);
- Dismantling the financial infrastructure of global terrorism (10/3/2001);
- Preventing identity theft by terrorists and criminals (11/8/200 1);
- Oversight of the USA PATRIOT Act and investigating patterns of terrorist financing (2/12/2002; 9/19/2002);
- Recovering monetary assets stolen by dictators (5/9/2002);
- Progress since 9/11 in tracking terrorist financing (3/11/2003);
- Freezing, seizing, and repatriating funds stolen by Saddam to Iraq (5/14/2003; 3/18/2004); and,
- The Hamas asset freeze and other efforts to curtain terrorist financing (9/24/2003);

Additionally, the subject of terrorist financing and efforts to curtain money laundering are often the subject of questions during Chairman Greenspan's twice-yearly appearances on the state of monetary policy and the economy, as well as during routine oversight hearings on the other financial regulators.

Legislatively, the Committee has also been active in efforts to curtain money laundering. The most substantial effort in this regard was the Financial Anti-Terrorism Act of 2001 (H.R. 3004, 107th Congress), enacted as title III of the USA PATRIOT Act (Public law 107–56). This measure contained a wide-variety of provisions addressing activities commonly associated with money laundering. It gave the Treasury Department important new authorities to reduce the traditional avenues of terrorist financing, such as hawala and other informal money-transfer systems which operate outside of the traditional banking system.

Additionally, the Act strengthened already existing elements with the Treasury Department to ensure that they were suited to the job of tracking terrorist financing. Most notably, the Financial Crimes Enforcement Network (FinCEN) was elevated from an office to a bureau within the Treasury, and it was given significant new standing and resources. FinCEN draws on the expertise of a number of different agencies to serve as an "early warning" system for terrorist financing, attempting to discover efforts by criminals and terrorists to move money through the system before it can be used to finance criminal acts. The Committee continues to closely monitor FinCEN's progress, and is actively engaged in making its efforts successful.

Similarly, the Office of Foreign Assets Control (OFAC) is an entity within the Treasury Department which receives regular scrutiny from the Committee. OFAC's mission is to freeze, seize and assist in the repatriation of foreign assets found in the U.S. banking system. OFAC and FinCEN, when taken together, are the frontline organizations in the Nation's battle against money laundering, representing the consolidation of expertise on the matter.Critical Infrastructure of the Nation's Financial System

One of the lessons arising from the events of September 11 was the importance of protecting the critical infrastructure of the Nation's financial system. The planes which hit the World Trade Center were a direct attack on the Nation's capital markets. The New York and American stock exchanges were temporarily shut down after the attacks, and a number of large market-makers, clearing operations, and other financial intermediaries were actually located within the towers themselves. However, the New York Stock Exchange was only closed for 4 business days, and the market infrastructure demonstrated an astounding degree of resilience given the magnitude of the destruction.

Much of the credit goes to preparations made by the financial services sector in their effort to avoid problems associated with the Y2K bug. During those efforts, many of the exchanges, firms, and financial institutions took the opportunity to build redundancy and backup systems, and perfect their disaster recovery procedures. Those efforts were invaluable in ensuring that the quick recovery of the markets.

However, those same events revealed other weaknesses in the system which the Committee continues to pursue. While critical infrastructure protection has many common elements across industries, such as the need to protect important telecommunications or transportation arteries, the financial services sector has dem-

onstrated that if other assets peculiar to that industry aren't protected, the results can be disastrous. By way of example, after the completion of a sales transaction for equities, the transaction goes through a "clearing" process which can take up to 5 days. If the records of those transactions are lost during the clearing process, literally billions of dollars could disappear from the economy in the blink of an eye. In the event of an emergency, the markets and their associated sales and clearing systems must be shut down in an orderly process so as to minimize the potential economic effects of a catastrophic failure.

Through a pattern of cooperation with the financial regulators and their regulated firms, the Committee has had a record of successful identification of problem areas, and efforts are under way to address those flaws. For instance, on February 12, 2003, the Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises held a hearing entitled "Recovery and Renewal: Protecting the Capital Markets Against Terrorism Post 9/11." This hearing featured the testimony from the General Accounting Office (GAO) highlighting their work on the financial services critical infrastructure issue, entitled "Potential Terrorist Attacks: More Actions Needed to Better Prepare Critical Financial Markets" (GAO as well as other testimony from the Securities and Exchange Commission, the New York Stock Exchange, NASDAQ, and the Bond Market Association. The Committee's efforts to address problem areas is ongoing both in public and non-public oversight efforts. Through the work of this study and the Committee's other work on the subject, it is apparent that a high level of expertise in the operation of the markets is necessary to protect its unique infrastructure.

## RECOMMENDATIONS FOR THE SUBCOMMITTEE

Most of the preceding material described the Committee's interaction with DHS on those programs within its jurisdiction and the Committee's other activities which might be characterized as "related" to homeland security. However, as you can see from those descriptions, our work has focused on the aspects of homeland security which are financial in nature, and essential to the proper functioning of the financial services sector.

In general, should the House decide to add the Homeland Security Committee to the roster of standing committees of the House, we believe that those matters that currently fall within the Financial Services Committee's Rule X jurisdiction are distinct enough so as to avoid any interference with the current or future work of the Homeland Security Committee. The Committee on Financial Services and its predecessors have a demonstrated expertise in the increasingly complex financial services sector which we should be permitted to continue to exercise.

Specifically, should the House decide to reorganize Rule X to better define the Homeland Security jurisdiction in the House, we recommend:

1. Programs administered by FEMA which currently fall within the jurisdiction of the Committee on Financial Services should remain within its jurisdiction. Those programs include the Defense Production Act (which FEMA shares with the Departments of Defense and Commerce), the Emergency Food and Shelter Program, and the National Flood Insurance Program. All of these programs are directly related to the core jurisdiction of the Committee on Financial Services, in either the areas of housing or defense production, price controls, or industrial policy. The Committee's legislative efforts on these matters have not been impeded by the transfer of FEMA to DHS. Similarly, other committees have always been FEMA's authorizing committees, and their efforts have similarly been unimpeded.

2. Jurisdiction over money laundering and terrorist financing should remain with the Committee on Financial Services. Despite the importance of money laundering and terrorist financing regulation to the efforts to protect the homeland, those programs are closely related to the regular operations of financial institutions and similar firms. The Department of the Treasury continues to be the lead agency in tracking, freezing, seizing, and repatriating illegal financial assets, and the Committee on Financial Services should maintain its traditional role in overseeing those operations.

3. Any grant of critical infrastructure protection to a Committee on Homeland Security should only be "general" While there is a role for a committee to play in formulating overall critical infrastructure protection policy, the oversight of specific sectors should remain with the committees of jurisdiction. This is similar to the grant of jurisdiction over insurance to the Committee on Financial Services, where the Financial Services Committee is granted jurisdiction over "insurance, generally", while other committees have jurisdiction over health insurance, crop insurance, and other similar matters. In the case of the Committee on Financial Services, oversight

of the critical infrastructure efforts specific to the financial services sector should remain with the Committee on Financial Services.

We hope that you have found these explanations and recommendations helpful in your deliberations. We stand ready to assist the Subcommittee and the Select Committee further should you require our assistance.

ATTACHMENT

U.S. HOUSE OF REPRESENTATIVES

COMMITTEE ON FINANCIAL SERVICES

WASHINGTON, DC 20515

July 11, 2002

The Honorable Richard K. Armey, *Chairman*
Select Committee on Homeland Security
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Armey:

The terrorist attacks of September 11 demonstrated the need for improved security and prevention measures to combat acts of violence against U.S. citizens. The Financial Services Committee has contributed to the fight against terrorism by cutting off funding for organizations that finance terrorist activities and strengthening existing money laundering laws through the USA PATRIOT Act (P.L. 107–56). Additionally, the Committee has sought to prevent catastrophic economic losses from such attacks through the passage of the Terrorist Risk Protection Act (H.R. 3210).

The Financial Services Committee has done an extensive review of its jurisdiction as it relates to the President's proposal to create a Department of Homeland Security (H.R. 5005). The Committee strongly supports the efforts of the President and the Select Committee on Homeland Security to create a new executive department that will coordinate resources in an effort to prevent attacks on the United States.

While the Committee will not mark up H.R. 5005, it would like to identify its jurisdiction over this legislation and reserve its right to consider the issues within our jurisdiction in the future. The Committee believes that it is in the best position to continue oversight of these programs, regardless of what executive department they are located.

The following represents our views about how the programs within our jurisdiction will integrate into the new Department of Homeland Security:

FEDERAL EMERGENCY MANAGEMENT AGENCY

The Committee has jurisdiction over three programs within the Federal Emergency Management Agency (FEMA) that would become the responsibility of the new department created through H.R. 5005. These programs are: the National Flood Insurance Programs, the Defense Production Act and the Emergency Food and Shelter Program. FEMA's mission is to prevent, prepare for, respond to, and recover from disasters of all types. The, Committee believes that the expertise of FEMA in consequence management is critical to the function of the proposed Office of Homeland Security

**National Flood Insurance Program—**The National Flood Insurance Act of 1968 (42 USC 4001 et seq.) created the National Flood Insurance Program (NFIP) and authorized the Director of FEMA to administer the Federal Insurance Administration (FIA). The FLA provided insurance protection for properties which are vulnerable to floods, but not insured by the private sector. Prior to passage of this act, insurance companies generally did not offer coverage for flood disasters because of the high risks involved. The legislation as amended in 1973 and 1994 authorized the FIA and Mitigation Directorate to administer the NFIP. In 2001, the FJA and the Mitigation Directorate were brought together into a single organization, the Federal Insurance and Mitigation Administration (FIMA).

FIMA has expertise in risk assessment, mitigation or loss prevention and insurance. Efforts such as resident education and flood mapping enable FEMA to reach out to residents in flood prone regions and protect against preventable losses. These services work in conjunction with the NFIP and have proven successful in building relationships in regions where floods are a threat to property and lives. The Committee understands that FIMA's risk assessment programs are now being designed

to assist local communities to identify and address their vulnerabilities from natural and man-made disasters.The Committee views FEMA's efforts to prevent and mitigate damage from floods as critical to the protection of lives and property. The Committee further believes that it is important that the NFIP and the FIMA to work together efficiently in the prevention of losses from floods and from other disasters and for that reason should for the time being remain within FEMA as it is transferred to the Department of Homeland Security. FEMA's programs may be reviewed by the Committee in the future in an effort to improve their operation and to ensure that users are properly served.

**The Defense Production Act—**The goal of the Defense Production Act of 1950 (50 USC App. 2062) (DPA) is to ensure that the United States has the ability to mobilize industrial and other civilian resources in support of national defense an civil emergency preparedness maintain military readiness when there is a threat to national security. The DPA is essential to the protection of the United States in so far as it uses economic tools to provide uninterrupted supplies of industrial resources in times of military crisis and civil emergency.

The DPA authorizes FEMA to coordinate Federal agencies' decisions concerning the provision of transportation services, the priority availability of civil defense resources, materials, services and facilities to ensure the dispersal of such resources in the interest of national defense. The DPA was reauthorized by the Financial Services Committee in 2001 for two years (F.L. 107–47).

The Committee believes the DPA is an important mechanism for the protection of the United States and should be located in the new Department of Homeland Security. Through the President's proposal, the DPA will be very important to mobilize national defense and civil emergency preparedness resources in the event of a terrorist attack or in an effort to ensure that there is adequate preparation to prevent such an attack.

T2The Emergency Food and Shelter Program—The Emergency Food and Shelter Program (EFSP) (P.L. 100–77) is governed by a national board consisting of several charitable organizations and is chaired by FEMA. The goal of this program is to allocate Federal funds for the provision of food and shelter. The national board awards funds to jurisdictions based upon a formula. Further, a small portion of the overall award is allocated by formula to state set-aside committees which then allocate funds to jurisdictions based upon the criteria they feel is most appropriate. The EFSP seeks to ensure that allocations are quickly made to neediest areas of the country, that the public and private sectors cooperate, and that decisions are made at the local level. In 2001, $140 million in aid was distributed through this program.

It can be argued that the operation of food and shelter programs has little to do with the protection of the United States from terrorist activities. However, the EFSP is a critical program which supplies food and shelter to needy people in emergency situations, and to ensure that the program remains effective and functional, the Committee recommends that it remain within FEMA at this time. The President's 2003 budget proposal calls for the EFSP to be moved from FEMA to the Department of Housing and Urban Development. This could be an effective allocation of Federal resources to aid those in need, and the Committee may examine the viability of such a move in the future.

## UNITED STATES SECRET SERVICE

The Committee commends the President for his proposal to move the United States Secret Service (USSS) to the new Department and maintain it as a "distinct entity" outside the four major jurisdictional cylinders established under the new Secretary. The Committee believes that the long dual-role history of the Service—investigative and protective—combined with its more recently developed expertise in preventing and investigating cyber crimes and its core mission of protecting the financial system of the United States, make the USSS uniquely suited to draw from and augment the work of the other component agencies of the new Department.

Since its founding in 1865 as the first investigative arm of the United States government and the protector of the integrity of U.S. currency, the Service has been the primary guardian of the country's financial services—banks, currency and payment systems. The added mission of personal protection, dating to 1901 following the assassination of President William McKinley, built on the Service's expertise at preventing crimes. That mission statement was expanded again in 1984 with passage of the Omnibus Crime Control Act (P.L. 98–473), adding jurisdiction over new crimes involving identity theft, access devices such as credit cards, and computer crimes. In 1994, further jurisdiction was added, recognizing USSS expertise investigating fraud against financial institutions. Today, the Secret Service has over

6,000 employees, an annual budget of just over $1 billion and 125 field offices across the United States and around the world.

**Infrastructure Protection— Springing from the Service's personal-protection role is the unique and important duty to protect critical infrastructures of the United States. The Committee believes this role should become an enhanced portion of the Service's duties at the new Department.**

The events of September 11 reinforce lessons the Committee learned in efforts to protect against financial-system and infrastructure failures due to the Year 2000 problem: that in an increasingly computerized and inter-connected world, the failure of a seemingly innocuous system can cause panic, deaths or economic calamity. Recent news stories indicating that Al Qaeda operatives have been probing the cyber security of U.S. power systems and dams as well as banks and defense systems show that the lesson has not been lost on terrorists, either. A serious compromise of these electronic networks could wreak havoc on our economy, law enforcement, military, health care, transportation and emergency services.

**Cyber Crime—**Cyber criminals have devised sophisticated programs and techniques to defraud both consumers and private industry through electronic means. In response, the Secret Service has developed new tools to combat the growing areas of cyber terrorism, financial crime and computer fraud. These techniques include the widely respected Electronic Crimes Special Agent Program and the series of task forces modeled on the New York Electronic Crimes Task Force that are now under development. The former program provides specialized training to select agents in all areas of electronic crimes, qualifying those personnel as experts in the forensic examination of electronic evidence. The USA PATRIOT Act, to which the Committee contributed a major title, authorized the Secret Service to establish a nationwide network of cyber crime task forces, based on the New York model that uses an innovative approach allowing local, state and national law enforcement agencies to combine their resources and experience with those of prosecutors, the private sector and academic institutions to deter electronic crimes of all sorts. In recent months, the Service has launched similar task forces across the country. The Committee strongly supports these efforts and believes they can be instrumental in preventing crimes that could disrupt the financial systems of the United States.

**Anti-Counterfeiting—**The Service's original mission in 1865 was to block the counterfeiting of the newly issued national currency, and while the mission does not today have the profile of protecting the President, it remains a core function. Indeed, the USSS anti-counterfeiting efforts may be even more important today than they were a century ago, as the U.S. dollar is the reserve currency of the world, is the official currency of a number of countries, and is the default currency of many more. The public's faith in the integrity of the dollar is at the heart of the stability of the U.S. economy.

Thus, the Committee believes that the Service's efforts to combat counterfeiting deserve continued and enhanced emphasis. Recent discoveries in Colombia of credible counterfeits of the new U.S. one-dollar coin and in both Colombia and in areas of Eastern Europe of counterfeit plants producing or ready to produce both U.S. banknotes and the new Euro banknotes indicate the magnitude of the problem. The Committee believes that the continued growth of counterfeiting by personal computer in the U.S. eventually will be mirrored overseas, where counterfeiting still mostly is done on presses and is thus somewhat easier to interdict. Also, the Committee believes that the establishment of more overseas field offices so that agents can gather and act on information first-hand—rather than relying on other Federal law agencies or other countries' law-enforcement—will increase the ability to stop counterfeiting.

Given the demonstrated nexus between counterfeiting, drug-running, arms-smuggling and terrorism, the Committee strongly believes that trying to staff anti-counterfeiting and other anti-crime and threat-assessment efforts for all of Central and South America and the Caribbean (except Colombia) from a single office in Miami is simply not practical anymore.

The Committee further believes that the Service's recent agreement with Europol to jointly police against counterfeiting is an important move and a model for other law enforcement that should be encouraged. The Committee stands ready to enhance other anti-counterfeiting law, as appropriate.

**Financial Crimes—**The Service's pedigree as the only Federal investigative unit until some of its agents were detailed to help form the Federal Bureau of Investigation in 1907, and its position within the Department of the Treasury, naturally led to a good relationship with the financial services industry and successes in stopping financial crimes. In the 1 980's, with the advent of relatively new technologies such as computers and credit cards came a wave of an entirely new sort of bank and fi-

nancial fraud, and the 1984 Act created three new criminal statutes—Title 18, Sections 1028, 1029 and 1030—to deal with fraud in conjunction with identity documents, access device fraud arid computer crimes, giving the Service major new authorities and clear jurisdiction. The USA PATRIOT Act cemented the Service's jurisdiction over Sections 1030 and 1344. The Committee believes that the Service's role in these areas, as well as the assessment of threats against financial services companies and the protection of that infrastructure—communications, power, etc.—vital to those companies, is invaluable and should be emphasized.

**Monetary Security—**While the President's legislative proposal for the new Department does not suggest consolidating the Treasury Department's monetary security forces into the new Department, the Committee believes that this could be an important step that should be closely examined. Currently the United States Mint and the Bureau of Engraving and Printing (BEP) maintain separate security forces that over the years have had varying degrees of success. The Committee feels that transferring this mission to the Secret Service in the new Department would have important benefits both to the security of the facilities that produce the country's currency and coins, and also to the security of U.S. gold reserves held at Fort Knox, currently under the supervision of the Mint. Noting that the BEP currently relies on the USSS heavily for consultations on its security arrangements, the Committee further believes that moving this mission to the Service may allow the currency-production arms of the Treasury to concentrate on what they do best and allow the Service to train its newest agents in a different form of protection detail, ultimately enhancing their abilities.

The Financial Services Committee strongly supports the efforts of the President and the Select Committee on Homeland Security to protect our citizens from terrorist attacks. While the Committee waives its referral of H.R. 5005, its Members stand ready to assist in the structuring of the envisioned Department of Homeland Security if such assistance is requested.

Yours truly,

MICHAEL G. OXLEY
Chairman

BARNEY FRANK
Ranking Member

THE HONORABLE CHARLES B. RANGEL, AND RANKING MEMBER OF THE COMMITTEE ON WAYS AND MEANS

Chairman Diaz-Balart and Ranking Member Slaughter, I appreciate the invitation to present my formal views to Members of the Subcommittee on Rules regarding the Select Committee on Homeland Security ("the Select Committee"). Establishment of the Select Committee for the 1 08 Congress was necessary to insure effective oversight and coordination in the creation of the Department of Homeland Security (DHS). Without question, the Committee played a valuable role in implementing the Homeland Security Act of 2002, monitoring the activities of the DHS, and providing a meaningful Congressional forum for discussion of our homeland security activities, problems, and concerns.

On the issue that is the subject of this hearing, the future of the Select Committee, I believe that there could be a continued role for the Select Committee to play, particularly with regard to coordinating the oversight and authorization activities of the various House committees that retain primary jurisdiction over elements of the Department of Homeland Security. That said, I do believe that the Committee on Ways and Means continues to have an important role in directly overseeing the customs activities of DHS, and in particular, the Customs and Border Protection (CBP) division. Much of the customs work done at CBP directly relates to revenue measures (e.g., collection of duties and implementation of U.S. trade laws, including laws related to U.S. trade agreements).

My current view is consistent with the position I took during passage of the Homeland Security Act of 2002. There I expressed strong reservations about the movement of the former U.S. Customs Service (USCS), which dealt with the movement of people, goods and cargo across our borders, from the Department of the Treasury to the new Department of Homeland Security.

My reservations stemmed, in large part, from the simple fact that the USCS played a unique role among all of the border agencies. USCS had a two-fold mandate—it was an enforcement agency *and* trade facilitation agency. On the enforcement side, USCS policed the borders to prevent the entry of contraband (drugs, haz-

ardous materials, terrorist implements, etc). On the trade facilitation side, USCS processed imports, collected duties, produced trade statistics, determined classification of products, and monitored and prevented the illegal transshipment of goods.

During the debate over the creation of the Department of Homeland Security, I wanted to make clear, if the USCS were moved from Treasury, that whatever reconstituted agency emerged would not be dominated by a focus on enforcement activities to the detriment of trade facilitation. The compromise eventually adopted in the Committee on Ways and Means, which preserved certain core trade positions from USCS at Treasury, attempted to address part of that concern, albeit imperfectly. I say imperfectly because many elements of the USCS were still moved to DHS, even though they are involved in what I view as essentially trade facilitation activities.

As you know, the Committee on Ways and Means' jurisdiction on trade- related issues includes "customs and customs administration . . .procedures which relate to customs operations affecting exports and imports. . .budget authorizations for the U.S. Customs Service. . . ." Given the continued trade focus of aspects of the CBP, the Committee on Ways and Means should continue to have primary jurisdiction over the trade facilitation aspects of the agency. Committee on Ways and Means oversight is necessary to ensure that trade facilitation does not become a secondary function of the CBP but rather continues as a tier-one priority along with border security and enforcement, as it was under the former USCS.

The trade-related nature of many of CBP's activities is evident from many of the primary projects CBP is pursuing as part of its core operations.

First, take the Customs-Trade Partnership Against Terrorism (C–TPAT) which is a partnership between the Federal Government and industry. Under the program, participating companies agree to adopt "best practices" to improve the security of their shipments from the factory floor to the foreign loading docks to the U.S. border points of entry. Those companies meeting security standards are then given a fast lane through border crossings and sea ports.

C–TPAT obviously serves two purposes. First, it helps CBP ensure that incoming cargo to the United States contains legitimate trade and has not been compromised by terrorists or smugglers of contraband. Second, and equally important, C–TPAT faciliates trade. It allows companies importing goods into the United States to get those goods processed in a timely, efficient manner. In this era of just-in-time delivery, this is crucial to the survival of any company.

Second, take the Automated Commercial Environment (ACE) which is the new trade processing system that will enable CBP to track, control, and process all commercial goods imported into and exported out of the United States. ACE was developed to replace the former USCS's existing, outdated automation system, which could not handle the massive increase in the volume of United States trade. A recent U.S. General Accounting Office study reported that the benefits of ACE include "speeding the flow of legitimate commerce into and out of the United States . . . and providing a single interface between the trade community and the Federal Government for trade data."

Third, consider how the CBP's core mission is described in the President's fiscal year 2005 budget justification materials: "CBP . . . implements and enforces the international trade agreements, such as the North American Free Trade Agreement . . ., the African Growth and Opportunity Act . . ., the Andean Trade Act, and the Caribbean Basin Initiative. In some instances, CBP officials are involved in trade negotiations on trade agreements. Other issues that CBP is involved in are the enforcement of the Trade Act of 1930 This can include taking enforcement action for any forced child labor or anti-dumping countervailing violations Also in support of domestic industry, CBP enforces . . . laws pertaining to intellectual property rights . . . . CBP administers and enforces any quotas on specific products such as textiles."

Finally, consider that in fiscal year 2003, CBP processed 26.1 million import entries, valued at over $1.2 trillion, and collected $24.7 billion in duties and fees.

I understand that CBP has other responsibilities. After all, the agency is not just comprised of the former USCS. It has immigration inspectors from the former Immigration and Naturalization Service, agricultural border inspectors from the Agriculture Department, and the entire Border Patrol. The total number of employees in CBP is 40,000. The Ways and Means Committee, of course, does not have jurisdiction, nor would I argue we should have, over these other elements of CBP. Other standing Committees have the requisite expertise to handle such matters.

As I indicated from the outset, I do believe that the Select Committee could have a role to play in coordinating the activities of the standing committees of jurisdiction and in providing technical support on a bipartisan basis. Further, continued oversight of DHS priorities and decisions will undoubtedly create balanced, "good government" analyses that will benefit all Members of the Congress.

In conclusion, I want to again support the efforts of the Select Committee on Homeland Security. It is only with our commitment and cooperation that, together, we can fight international terrorism and protect our borders at home.

THE HONORABLE C.W. BILL YOUNG, CHAIRMAN OF THE SUBCOMMITTEE ON RULES

Ladies and Gentlemen of the Subcommittee on Rules, I am pleased to share with you today my observations and reflections of the House Committee on Appropriations' oversight structure for homeland security programs and activities. These observations are based upon my experience of reorganizing the House Committee on Appropriations last year. I believe that the House Committee on Appropriations is the only committee of the House that has permanently reorganized in the wake of the tragic events of September 11, 2001, and the establishment of the Department of Homeland Security. Doing so was no small task. In fact, the last reorganization of the Committee on Appropriations was some 3 decades ago and is indicative of the difficulty in proposing and implementing change in this institution.

The Committee was guided by several principles in developing and implementing its reorganization plan: firstly, the committee needed to provide a structure of oversight to the Department of Homeland Security. The department itself lacked an institutional structure; it was a conglomeration of several disparate agencies. Secondly, we had to create a subcommittee that was comprised of members and staff that had the credibility and tenacity to provide effective oversight over a nascent department with arguably some of our government's most important programs. We had to move quickly, without regard to political turf, and we had to move unilaterally. I would like to expound on each of these points briefly.

The imperative for the Committee (and the department presumably) from the outset was to provide a structure for the legacy agencies to coalesce into a single department with a coordinated, unified mission. The vast number of agencies, accounts and programs that were transferred to the new Department of Homeland Security cut across the majority of our thirteen subcommittees. Clearly, it would not be physically possible for the Secretary of the Department of Homeland Security to testify before each of seven appropriations subcommittees, an equal number of authorizing committees, and to organize a new department, and most importantly, to improve our nation's security. And just as the Secretary could not focus on his new job at hand and testify and report to several different subcommittees, the Committee would find it equally difficult to provide consistent oversight and appropriate funding levels if the myriad of the department's programs and activities were scattered across seven subcommittees. It was obvious to me early that we needed to reorganize—to provide a structure to ourselves and for the new agency that we were to oversee and fund.

Like national defense, homeland security should be above political infighting. To that end, we decided that the new subcommittee should be an "exclusive" subcommittee, comprised of members with previous oversight experience of the programs of the new department and had who proven themselves to be thoughtful, deliberative and above the political fray. We felt that these traits were important for the members to serve on this subcommittee since, in the absence of a single permanent committee with exclusive jurisdiction of homeland security programs, this subcommittee would be the sole committee providing continuing oversight without regard to inter-authorizing committee jurisdictional concerns. Just as it was important to ensure that the members of the subcommittee had oversight experience, we drew from the senior committee personnel to staff the new subcommittee. The staff has extensive program management, administrative and legislative experience. Members and senior staff were moved from our old transportation, energy and water, and treasury/postal subcommittees. Doing so ensured effective oversight and a structure to produce a bipartisan bill in a timely manner.

Lastly, the decision was made to act decisively and unilaterally. I briefed the chairmen of the affected subcommittees and my leadership of the planned reorganization. I selected the new chairman. And I acted. Broad discussion with stakeholders would have proven fatal to a reorganization that had to be in place quickly to ensure our government's newest department was up and running quickly with proper and effective management controls in place and robust and continuing oversight conducted by the Appropriations Committee. Within a few short weeks, the Senate replicated the House Committee on Appropriations' reorganization.

I hope that my experience in reorganizing the Committee on Appropriations proves useful to you as you consider the appropriate authorizing structure of the programs of the Department of Homeland Security.